***United States Court of Appeals***

***for the Second Circuit***

# APPENDIX

# No. 76-4227

## United States Court of Appeals

FOR THE SECOND CIRCUIT

INTERNATIONAL BROTHERHOOD OF ELECTRICAL WORKERS, AFL-CIO, and LOCAL UNIONS NOS. 1212, 4, 45, 202, 1200, 1220 AND 1228, INTERNATIONAL BROTHERHOOD OF ELECTRICAL WORKERS, AFL-CIO, *Petitioners,*

v.

NATIONAL LABOR RELATIONS BOARD, *Respondent,*

and

CBS, INC., *Intervenor.*

**APPENDIX**


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New York, New York 10007

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Los Angeles, California 90017

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UNITED STATES COURT OF APPEALS
FILED
MAR 18 1977
A. DANIEL FUSARO, CLERK
SECOND CIRCUIT

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| v. | ) | No. 76-4227 |
| NATIONAL LABOR RELATIONS BOARD, Respondent. | ) | |

CERTIFIED LIST OF THE NATIONAL LABOR RELATIONS BOARD

The National Labor Relations Board, by its Executive Secretary duly authorized by Section 102.115, Rules and Regulations of the National Labor Relations Board - Series 8, hereby certifies that the list set forth below constitutes a full and accurate transcript of the entire record of a proceeding had before said Board and known upon its records as Case No. 31-CA-3017. Such transcript includes the pleadings and testimony and evidence upon which the Order of the Board was entered and includes also the findings and order of the Board.

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BEST COPY AVAILABLE

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IN TESTIMONY WHEREOF, the Executive Secretary of the National Labor Relations Board, being thereunto duly authorized as aforesaid, has hereunto set his hand and affixed the seal of the National Labor Relations Board in the city of Washington, District of Columbia, this day of

/s/ John C. Truesdale
John C. Truesdale
Executive Secretary
NATIONAL LABOR RELATIONS BOARD

(SEAL)

CHRONOLOGICAL LIST OF RELEVANT DOCKET ENTRIES

In the Matter of: Int'l Bro. of Electrical Wkrs., AFL-CIO, & Loc. Unions Nos. 1212, 45, 202, 1200, 1220 & 1228, Int'l Bro. of Electrical Wkrs., AFL-CIO

Case No.: 31-CA-5587

| | |
|---|---|
| 9.11.75 | Charge filed |
| 9.16.75 | First Amended Charge filed |
| 12. 5.75 | Complaint and Notice of Hearing, dated |
| 12.19.75 | CBS Inc.'s request for extension of time to file an answer, dated |
| 12.22.75 | Regional Director's Order Extending Time for Filing Answer to Complaint, dated |
| 1.19.76 | CBS Inc.'s Answer to Complaint, dated |
| 2.17.76 | CBS Inc.'s Amended Answer to Complaint, dated |
| 2.17.76 | CBS Inc.'s Motion for Protective Order, dated |
| 2.18.76 | General Counsel's telegraphic message urging that CBS Inc.'s motion for protective order be referred for ruling to Administrative Law Judge assigned to hear case, dated |
| 2.20.76 | West Coast Presiding Judge's telegraphic message referring CBS Inc.'s motion for protective order and General Counsel's response to the Administrative Law Judge designated to preside at the hearing, dated |
| 2.24.76 | Hearing opened |
| 2.25.76 | Hearing closed |
| 6.23.76 | Administrative Law Judge's Decision issued |
| 7.26.76 | General Counsel's Exceptions to the Decision of the Administrative Law Judge, received |
| 7.27.76 | Petitioners Int'l Bro. of Electrical Wkrs., AFL-CIO & IBEW Local 45's Exceptions to Decision of the Administrative Law Judge, received |
| 8.20.76 | CBS Inc.'s Cross-Exception, received |
| 10.19.76 | Decision and Order issued by the National Labor Relations Board |

FORM NLRB-501 (2-67)

4

Form Approved
Budget Bureau No. 64-R001.12

UNITED STATES OF AMERICA
NATIONAL LABOR RELATIONS BOARD

# CHARGE AGAINST EMPLOYER

*INSTRUCTIONS: File an original and 4 copies of this charge with NLRB regional director for the region in which the alleged unfair labor practice occurred or is occurring.*

DO NOT WRITE IN THIS SPACE

Case No. (X 31-CB-2025)
31-CA-5587

Date Filed
9-11-75

## 1. EMPLOYER AGAINST WHOM CHARGE IS BROUGHT

a. Name of Employer
CBS, Inc.

b. Number of Workers Employed

c. Address of Establishment (Street and number, city, State, and ZIP code) 7800 Beverly Boulevard
Los Angeles, California

d. Employer Representative to Contact

e. Phone No.

f. Type of Establishment (Factory, mine, wholesaler, etc.)

g. Identify Principal Product or Service

b. The above-named employer has engaged in and is engaging in unfair labor practices within the meaning of section 8(a), subsections (1) and (5) (List subsections) of the National Labor Relations Act, and these unfair labor practices are unfair labor practices affecting commerce within the meaning of the Act.

2. Basis of the Charge (Be specific as to facts, names, addresses, plants involved, dates, places, etc.)

Within six months prior to the filing of this charge the above-named Employer has failed and refused to bargain in good faith with the charging party in that CBS has refused to bargain with any of the charging parties except on condition that one of the charging parties' representatives be excluded from collective bargaining sessions.

By the above and other acts, the above-named employer has interfered with, restrained, and coerced employees in the exercise of the rights guaranteed in Section 7 of the Act.

3. Full Name of Party Filing Charge (If labor organization, give full name, including local name and number)
SEE ATTACHMENT

4a. Address (Street and number, city, State, and ZIP code)
SEE ATTACHMENT

4b. Telephone No.

5. Full Name of National or International Labor Organization of Which It Is an Affiliate or Constituent Unit (To be filled in when charge is filed by a labor organization)
International Brotherhood of Electrical Workers

## 6. DECLARATION

I declare that I have read the above charge and that the statements therein are true to the best of my knowledge and belief.

BRUNDAGE, BEESON & PARRY

By _____ Attorney
(Signature of representative or person filing charge) (Title, if any)

Richard S. Davis, Jr.

Address 1625 W. Olympic Blvd. Suite 808, L.A., Calif. 90015 385-3071 (Telephone number) September 11, 1975 (Date)

WILLFULLY FALSE STATEMENTS ON THIS CHARGE CAN BE PUNISHED BY FINE AND IMPRISONMENT (U.S. CODE, TITLE 18, SECTION 1001)

ATTACHMENT

Local 45, International Brotherhood
of Electrical Workers, AFL-CIO
3518 Chauenga Blvd., West
Hollywood, CA 90028 (213) 851-5515

Local 202, International Brotherhood
of Electrical Workers, AFL-CIO
210 Mississippi Street
San Francisco, CA 94197 (415) 864-0202

Local 1212, International Brotherhood
of Electrical Workers, AFL-CIO
230 West 41st Street
New York, New York 10036 (212) 354-6770

Local 1220, International Brotherhood
of Electrical Workers, AFL-CIO
203 North Wabash Ave.
Chicago, Illinois 60601 (312) 332-1908

Local 1228, International Brotherhood
of Electrical Workers, AFL-CIO
353 Washington Street
Brighton, Mass. 02135 (617) 254-4900

Local 4, International Brotherhood
of Electrical Workers, AFL-CIO
1516 South Brentwood Blvd.
Brentwood, MO 63144 (314) 968-3858

Local 1200, International Brotherhood
of Electrical Workers, AFL-CIO
2401 Blue Ridge Ave.
Wheaton, Maryland 20902 (202) 933-0450

International Brotherhood of
Electrical Workers, AFL-CIO
1125 15th Street, N.W. (202) 833-7000
Washington, D.C. 20005

CA

6 7848

September 12, 1975

CBS, Inc.
7800 Beverly Boulevard
Los Angeles, CA 90036

Re: CBS, INC.

Case No. 31-CA-5587

NOTICE OF FILING OF CHARGE

Gentlemen:

Pursuant to the provisions of the National Labor Relations Act, as amended, a charge alleging the commission of unfair labor practices within the meaning of the Act has been filed with this office. A copy of the charge is enclosed. Also enclosed is a copy of Form NLRB-4541, pertaining to our investigative and voluntary adjustment procedures.

I would appreciate receiving from you promptly a full and complete written account of the facts and a statement of your position with respect to the allegations set forth in the charge.

If you have not done so recently (within the past year), please furnish us with a description of your company's business. An outline to assist you is enclosed. If it is insufficient for your purposes, please include such additional data to give a complete picture of your operations.

Attention is called to your right, and the right of any party, to be represented by counsel or other representative in any proceeding before the National Labor Relations Board and the Courts. In the event you choose to have a representative appear on your behalf, please have your representative complete "Notice of Appearance" Form NLRB-4701 and forward it promptly to this office. Also enclosed is Form NLRB-4813 for your convenience.

The case has been assigned to Glen A. Summess, Field Attorney whose telephone number is (213) 824-7848. Please contact this agent if you have any questions or desire to discuss the case. Your cooperation with this office is invited so that all facts of the case may be considered.

Very truly yours,

Abraham Siegel
Regional Director

Enclosures
REGISTERED MAIL -
RETURN RECEIPT REQUESTED

I certify that I served the above-referenced charge this day by postpaid registered mail on the addressee(s) named above, together with a transmittal letter of which this is a true copy.

/s/ Susan Vavrick

Subscribed and sworn to before me

this 12th day of September, 1975

/s/ Glenda Williams

Designated Agent

cc: CBS Inc. B.C.

FORM NLRB-501
(2-67)

7

Form Approved
Budget Bureau No. 64-R001.12

UNITED STATES OF AMERICA
NATIONAL LABOR RELATIONS BOARD

FIRST AMENDED CHARGE AGAINST EMPLOYER

| INSTRUCTIONS: File an original and 4 copies of this charge with NLRB regional director for the region in which the alleged unfair labor practice occurred or is occurring. | DO NOT WRITE IN THIS SPACE<br>Case No.<br>31-CA-5587<br>Date Filed<br>9-16-75 |
|---|---|

**1. EMPLOYER AGAINST WHOM CHARGE IS BROUGHT**

| a. Name of Employer | b. Number of Workers Employed | |
|---|---|---|
| CBS, Inc. | | |
| c. Address of Establishment (Street and number, city, State, and ZIP code) 7800 Beverly Boulevard Los Angeles, California | d. Employer Representative to Contact | e. Phone No. |
| f. Type of Establishment (Factory, mine, wholesaler, etc.) | g. Identify Principal Product or Service | |

h. The above-named employer has engaged in and is engaging in unfair labor practices within the meaning of section 8(a), subsections (1) and (5) (List subsections) of the National Labor Relations Act, and these unfair labor practices are unfair labor practices affecting commerce within the meaning of the Act.

2. Basis of the Charge (Be specific as to facts, names, addresses, plants involved, dates, places, etc.)

Within six months prior to the filing of this charge the above-named Employer has failed and refused to bargain in good faith with the charging party in that CBS has refused to bargain with any of the charging parties except on condition that one of the charging parties' representatives be excluded from collective bargaining sessions.

Because of the substantial unfair labor practices alleged, the charging parties hereby request that the Board seek 10(j) injunctive relief.

By the above and other acts, the above-named employer has interfered with, restrained, and coerced employees in the exercise of the rights guaranteed in Section 7 of the Act.

3. Full Name of Party Filing Charge (If labor organization, give full name, including local name and number)

SEE ATTACHMENT

| 4a. Address (Street and number, city, State, and ZIP code) | 4b. Telephone No. |
|---|---|
| SEE ATTACHMENT | |

5. Full Name of National or International Labor Organization of Which It Is an Affiliate or Constituent Unit (To be filled in when charge is filed by a labor organization)

International Brotherhood of Electrical Workers

**6. DECLARATION**

I declare that I have read the above charge and that the statements therein are true to the best of my knowledge and belief.

BRYDAGE, BEESON & PAPP

By _____ Attorney
(Signature of representative or person filing charge) (Title, if any)

Richard J. Davis, Jr.

Address 1625 W. Olympic Blvd. Suite 305, L.A., Calif. 90015 | 385-3071 (Telephone number) | September 17, 1975 (Date)

WILLFULLY FALSE STATEMENTS ON THIS CHARGE CAN BE PUNISHED BY FINE AND IMPRISONMENT (U.S. CODE, TITLE 18, SECTION 1001)

ATTACHMENT

Local 45, International Brotherhood
of Electrical Workers, AFL-CIO
3518 Chauenga Blvd., West
Hollywood, CA 90028 (213) 851-5515

Local 202, International Brotherhood
of Electrical Workers, AFL-CIO
210 Mississippi Street
San Francisco, CA 94197 (415) 864-0202

Local 1212, International Brotherhood
of Electrical Workers, AFL-CIO
230 West 41st Street
New York, New York 10036 (212) 354-6770

Local 1220, International Brotherhood
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203 North Wabash Ave.
Chicago, Illinois 60601 (312) 332-1908

Local 1228, International Brotherhood
of Electrical Workers, AFL-CIO
353 Washington Street
Brighton, Mass. 02135 (617) 254-4900

Local 4, International Brotherhood
of Electrical Workers, AFL-CIO
1516 South Brentwood Blvd.
Brentwood, MO 63144 (314) 968-3858

Local 1200, International Brotherhood
of Electrical Workers, AFL-CIO
2401 Blue Ridge Ave.
Wheaton, Maryland 20902 (202) 933-0450

International Brotherhood of
Electrical Workers, AFL-CIO
1125 15th Street, N.W. (202) 833-7000
Washington, D.C. 20005

7848

9

September 18, 1975

CBS, Inc.
7800 Beverly Boulevard
Los Angeles, CA 90048

Re: CBS, INC.

Case No. 31- CA-5587

NOTICE OF FILING OF FIRST
AMENDED CHARGE

Gentlemen:

Pursuant to the provisions of the National Labor Relations Act, as amended, a charge alleging the commission of unfair labor practices within the meaning of the Act has been filed with this office. A copy of the charge is enclosed. Also enclosed is a copy of Form NLRB-4541, pertaining to our investigative and voluntary adjustment procedures.

I would appreciate receiving from you promptly a full and complete written account of the facts and a statement of your position with respect to the allegations set forth in the charge.

The case has been assigned to **Glenn A. Sumness, Field Attorney,** whose telephone number is (213) 824- 7848. Please contact this agent if you have any questions or desire to discuss the case. Your cooperation with this office is invited so that all facts of the case may be considered.

Very truly yours,

Abraham Siegel

Abraham Siegel
Regional Director

Enclosures
REGISTERED MAIL -
RETURN RECEIPT REQUESTED

I certify that I served the above-referred to charge this day by postpaid registered mail on the addressee(s) named above, together with a transmittal letter of which this is a true copy.

Subscribed and sworn to before me /s/ Susan Vavrick

this 18th day of September 1975.

/s/ Glenda Williams
Designated Agent

GC Exh 1(d)

UNITED STATES OF AMERICA
BEFORE THE NATIONAL LABOR RELATIONS BOARD
Region 31

CBS INC.

and

Case No. 31-CA-5587

INTERNATIONAL BROTHERHOOD OF ELECTRICAL WORKERS, AFL-CIO, AND LOCAL 4, LOCAL 45, LOCAL 202, LOCAL 1200, LOCAL 1212, LOCAL 1220, AND LOCAL 1228, INTERNATIONAL BROTHERHOOD OF ELECTRICAL WORKERS, AFL-CIO

COMPLAINT
AND
NOTICE OF HEARING

It having been charged by International Brotherhood of Electrical Workers, AFL-CIO, and Local 4, Local 45, Local 202, Local 1200, Local 1212, Local 1220, and Local 1228, International Brotherhood of Electrical Workers, AFL-CIO, herein collectively called the Unions, that CBS Inc. herein called Respondent, has engaged in, and is engaging in, certain unfair labor practices affecting commerce as set forth and defined in the National Labor Relations Act, as amended, 29 U.S.C. Sec. 151, et seq., herein called the Act, the General Counsel of the National Labor Relations Board, herein called the Board, on behalf of the Board, by the undersigned Regional Director, pursuant to Section 10(b) of the Act and Section 102.15 of the Board's Rules and Regulations, Series 8, as amended, hereby issues this Complaint and Notice of Hearing and alleges as follows:

1. (a) The original charge was filed by the Unions on September 11, 1975, and a copy thereof was served on Respondent by registered mail on or about September 16, 1975.

(b) A first amended charge was filed by the Unions on September 16, 1975, and a copy thereof was served on Respondent by registered mail on or about September 19, 1975.

2. (a) Respondent is now, and has been at all times material herein, a corporation duly organized under and

existing by virtue of the laws of the State of New York, with facilities at various locations within the United States, including facilities located in Los Angeles, California, where it is engaged in radio and television broadcasting.

(b) Respondent, in the course and conduct of its business operations, annually sells goods and services valued in excess of $50,000 directly to customers located outside the State of California.

(c) Respondent, in the course and conduct of its business operations, annually derives gross revenues in excess of one million dollars.

3. Respondent is now, and has been at all times material herein, an employer engaged in commerce and in a business affecting commerce within the meaning of Section 2(6) and (7) of the Act.

4. (a) The Unions are now, and have been at all times material herein, labor organizations within the meaning of Section 2(5) of the Act.

(b) The National Association of Broadcast Engineers and Technicians, AFL-CIO, herein called NABET, is now, and has been at all times material herein, a labor organization within the meaning of Section 2(5) of the Act.

5. At all times material herein, James F. Sirmons occupied the position of Vice President, Industrial Relations of Respondent, acting on its behalf, and has been, and is now, a supervisor within the meaning of Section 2(11) of the Act.

6. Effective on or about October 1, 1972, the Unions and Respondent entered into a collective-bargaining agreement, herein called the 1972 Agreement, which was effective by its terms to and including September 30, 1975, concerning the rates of pay, wages, hours of employment, and other terms and conditions of employment of the employees employed by Respondent in the unit described below in paragraph 7.

7. All technicians of Respondent engaged in work specified in Section 1.03 of the 1972 Agreement, when done in connection with the production and/or recording of material for broadcast, theatre or pay television, film-tape or tape-film transfer or standard conversion or recording processes in connection with broadcasting and those types of closed-circuit upon which technicians have been or are now performing services, constitute a unit appropriate for the purposes of collective bargaining within the meaning of Section 9(b) of the Act.

8. At all times material herein, and continuing to date, the Unions have been the exclusive representatives for the purposes of collective bargaining of the employees in the unit described above in paragraph 7, and, by virtue of Section 9(a) of the Act, have been, and are now, the exclusive representatives of all the employees in said unit for the purposes of collective bargaining with respect to rates of pay, wages, hours of employment, and other terms and conditions of employment.

9. (a) Commencing on or about July 14, 1975, and continuing until on or about September 30, 1975, the Unions and Respondent were engaged in collective-bargaining negotiations at Ossining, New York, and San Diego, California, seeking to reach agreement on a contract to replace the 1972 Agreement.

(b) On or about September 30, 1975, the Unions and Respondent agreed to extend the 1972 Agreement for a five-month period.

10. Since on or about September 8, 1975, and continuing until on or about September 30, 1975, representatives of NABET, as members of the Unions' negotiating committee, participated in the collective-bargaining negotiations described above in paragraph 9(a).

11. Commencing on or about July 14, 1975, and continuing to date, and more particularly from September 8 through 30, 1975, the Unions have requested, and are requesting, Respondent to bargain collectively with respect to rates of pay, wages, hours of employment, and other terms and conditions of employment, as the exclusive collective-bargaining representatives of all the employees of Respondent in the unit described above in paragraph 7.

12. Commencing on or about September 8, 1975, and at all times thereafter, Respondent did refuse, and continues to refuse, to bargain collectively with the Unions as the exclusive collective-bargaining representatives of all the employees in the unit described above in paragraph 7, in that, commencing on or about September 8, 1975, and continuing to date, Respondent has refused, and continues to refuse, to recognize or to meet with the Unions to negotiate or discuss the terms of a collective-bargaining agreement because of the presence of NABET representatives on the Unions' negotiating committee.

13. By the acts and conduct described in paragraph 12 above, in the circumstances described in paragraphs 6 through 11 above, and by each of said acts, Respondent did refuse to bargain collectively, and is refusing to bargain collectively in good faith with the Unions as the exclusive collective-bargaining representatives of the employees in the unit described above in paragraph 7, and Respondent did thereby engage in, and is engaging in, unfair labor practices within the meaning of Section 8(a)(5) of the Act.

14. By the acts and conduct described in paragraphs 12 and 13 above, and by each of said acts, Respondent did interfere with, restrain and coerce, and is interfering with, restraining and coercing its employees in the exercise of their rights guaranteed in Section 7 of the Act, and Respondent

did thereby engage in, and is engaging in, unfair labor practices within the meaning of Section 8(a)(1) of the Act.

15. The acts and conduct of Respondent described in paragraphs 12 through 14 above, occurring in connection with the operations of Respondent described in paragraphs 2 and 3 above, have a close, intimate, and substantial relation to trade, traffic and commerce among the several states and have led, and tend to lead, to labor disputes burdening and obstructing commerce and the free flow of commerce.

16. The acts and conduct of Respondent described above constitute unfair labor practices affecting commerce within the meaning of Section 8(a)(1) and (5) and Section 2(6) and (7) of the Act.

PLEASE TAKE NOTICE that on the 24th day of February 1976, at 10 a.m., PST, 12th Floor, Federal Building, 11000 Wilshire Boulevard, Los Angeles, California, a hearing will be conducted before a duly designated Administrative Law Judge of the National Labor Relations Board on the allegations set forth in the above Complaint, at which time and place you will have the right to appear in person or otherwise, and give testimony. Form NLRB-4668, Summary of Standard Procedures in Formal Hearings Held Before the National Labor Relations Board in Unfair Labor Practice Cases as Taken from the Board's Published Rules and Regulations and Statements of Procedure is attached.

You are further notified that pursuant to Sections 102.20 and 102.21 of the Board's Rules and Regulations, Series 8, as amended, Respondent shall file with the Regional Director, acting in this matter as agent of the National Labor Relations Board, an original and four copies of an answer to said Complaint within 10 days from the service thereof and that unless it

does so all of the allegations in the Complaint shall be deemed to be admitted to be true and may be so found by the Board. Immediately upon the filing of its answer, Respondent shall serve a copy thereof on each of the other parties.

Dated at Los Angeles, California, this 5th day of December 1975.

Abraham Siegel, Regional Director
National Labor Relations Board
Region 31
12th Floor, Federal Building
11000 Wilshire Boulevard
Los Angeles, CA 90024

# SUMMARY OF STANDARD PROCEDURES IN FORMAL HEARINGS HELD BEFORE THE NATIONAL LABOR RELATIONS BOARD IN UNFAIR LABOR PRACTICE PROCEEDINGS PURSUANT TO SECTION 10 OF THE NATIONAL LABOR RELATIONS ACT, AS AMENDED

The hearing will be conducted by an Administrative Law Judge of the National Labor Relations Board. He will preside at the hearing as an independent, impartial trier of the facts and the law and his decision in due time will be served on the parties. His headquarters are either in Washington, D.C. or San Francisco, California.

At the date, hour, and place for which the hearing is set, the Administrative Law Judge, upon the joint request of the parties, will conduct a "prehearing" conference, prior to or shortly after the opening of the hearing, to assure that the issues are sharp and clear-cut; or he may, on his own initiative, conduct such a conference. He will preside at any such conference, but he may, if the occasion arises, permit the parties to engage in private discussions. The conference will not necessarily be recorded, but it may well be that the labors of the conference will be evinced in the ultimate record -- for example, in the form of statements of position, stipulations, and concessions. Except under unusual circumstances, the Administrative Law Judge conducting the prehearing conference will be the one who will conduct the hearing; and it is expected that the formal hearing will commence or be resumed immediately upon completion of the prehearing conference. No prejudice will result to any party unwilling to participate in or to make stipulations or concessions during any prehearing conference.

(This is not to be construed as preventing the parties from meeting earlier for similar purposes. To the contrary, the parties are encouraged to meet prior to the time set for hearing in an effort to narrow the issues.)

Parties may be represented by an attorney or other representative and present evidence relevant to the issues.

An official reporter will make the only official transcript of the proceedings, and all citations in briefs and arguments must refer to the official record. The Board will not certify any transcript other than the official transcript for use in any court litigation. Proposed corrections of the transcript should be submitted, either by way of stipulation or motion, to the Administrative Law Judge for his approval.

All matter that is spoken in the hearing room while the hearing is in session will be recorded by the official reporter unless the Administrative Law Judge specifically directs off-the-record discussion. In the event that any party wishes to make off-the-record statements, a request to go off the record should be directed to the Administrative Law Judge and not to the official reporter.

Statements of reasons in support of motions and objections should be specific and concise. The Administrative Law Judge will allow an automatic exception to all adverse rulings, and, upon appropriate order, an objection and exception will be permitted to stand to an entire line of questioning.

All exhibits offered in evidence shall be in duplicate. Copies shall also be supplied to other parties. If a copy of any exhibit is not available at the time the original is received, it will be the responsibility of the party offering such exhibit to submit the copy before the close of hearing. In the event such copy is not submitted, and the filing thereof has not for good reason shown been waived by the Administrative Law Judge, any ruling receiving the exhibit may be rescinded and the exhibit rejected.

Any party shall be entitled, upon request, to a reasonable period at the close of the hearing for oral argument, which shall be included in the stenographic report of the hearing. In the absence of a request, the Administrative Law Judge may himself ask for oral argument, if at the close of the hearing he believes that such argument would be beneficial to his understanding of the contentions of the parties and the factual issues involved.

Any party shall also be entitled upon request made before the close of the hearing, to file a brief or proposed findings and conclusions, or both, with the Administrative Law Judge who will fix the time for such filing.

Attention of the parties is called to the following requirements laid down in Section 102.42 of the Board's Rules and Regulations with respect to the procedure to be followed before the proceeding is transferred to the Board:

No request for an extension of time within which to submit briefs or proposed findings to the Administrative Law Judge will be considered unless received by the Chief Administrative Law Judge in Washington, D. C. (or in cases under the San Francisco, California branch office of the Division of Judges, the Presiding Judge in charge of such office) at least 3 days prior to the expiration of time fixed for the submission of such documents. Notice of request for such extension of time must be served simultaneously upon all other parties, and proof of such service furnished to the Chief Administrative Law Judge or Presiding Judge as the case may be. All briefs or proposed findings filed with the Administrative Law Judge must be submitted in triplicate, and may be in typewritten, printed, or mimeographed form, with service upon the other parties.

In due course the Administrative Law Judge will prepare and file with the Board his decision in this proceeding, and will cause a copy thereof to be served upon each of the parties. Upon filing of the said decision, the Board will enter an order transferring this case to itself, and will serve copies of that order, setting forth the date of such transfer, upon all parties. At that point, the Administrative Law Judge's official connection with the case will cease.

The procedure to be followed before the Board from that point forward, with respect to the filing of exceptions to the Administrative Law Judge's Decision, the submission of supporting briefs, requests for oral argument before the Board, and related matters, is set forth in the Board's Rules and Regulations, Series 8, as amended, particularly in Section 102.46, and following sections. A summary of the more pertinent of these provisions will be served upon the parties together with the order transferring the case to the Board.

Adjustments or settlements consistent with the policies of the Act reduce government expenditures and promote amity in labor relations. Upon request, the Administrative Law Judge will afford reasonable opportunity during the hearing for discussions between the parties if adjustment appears possible, and may himself suggest it.

GPO 941-789

Form NLRB-877
(11-56)

# UNITED STATES OF AMERICA
# BEFORE THE NATIONAL LABOR RELATIONS BOARD

CBS I C.

and

INTERNATIONAL BROTHERHOOD OF ELECTRICAL WORKERS, AFL-CIO, AND LOCAL 4, LOCAL 45, LOCAL 202, LOCAL 1200, LOCAL 1212, LOCAL 1220, AND LOCAL 1228, INTERNATIONAL BROTHERHOOD OF ELECTRICAL WORKERS, AFL-CIO

Case No. 31-CA-5567

AFFIDAVIT OF SERVICE OF COMPLAINT AND NOTICE OF HEARING W/FORM NLRB-4668 ATTACHED

DATE OF MAILING December 5, 1975

I, the undersigned employee of the National Labor Relations Board, being duly sworn, depose and say that on the date indicated above I served the above-entitled document(s) by post-paid registered/~~certified~~ mail upon the following persons, addressed to them at the following addresses:

CBS Inc.
51 West 52nd Street
New York, New York 10019
(1201363) (Airmail)

Edgar J. Vergeau, Esquire
CBS Inc., Law Department
51 West 52nd Street
New York, New York 10019
(1201364) (Airmail)

Local 45, International Brotherhood of Electrical Workers, AFL-CIO
5615 Chalenga Boulevard, West
Hollywood, CA 90028
(1201365)

Local 202, IBEW, AFL-CIO
210 Mississippi Street
San Francisco, CA 94197
(1201366) (Airmail)

Local 1212, IBEW, AFL-CIO
230 West 41st Street
New York, New York 10036
(1201367) (Airmail)

Local 1220, IBEW, AFL-CIO
201 North Wabash Avenue
Chicago, ILL 60601
(1201368) (Airmail)

Local 1228, IBEW, AFL-CIO
353 Washington Street
Brighton, MASS 02135
(1201369) (Airmail)

Local 4, IBEW, AFL-CIO
1515 South Brentwood Boulevard
Brentwood, MO 63144
(1201370) (Airmail)

Local 1200, IBEW, AFL-CIO
2401 Blue Ridge Avenue
Wheaton, Maryland 20902
(1201371) (Airmail)

International Brotherhood of Electrical Workers, AFL-CIO
1125 15th Street, N. W.
Washington, D. C. 20005
(1201372) (Airmail)

Richard Davis, Jr., Esquire
Brundage, Beeson & Pappy
1625 West Olympic Boulevard
Los Angeles, CA 90015
(1201373)

Laurence Cohen, Esquire
Sherman, Dunn, Cohen & Leifer
1125 15th Street, N. W.
Washington, D. C. 20005
(1201374) (Airmail)

Subscribed and sworn to before me

this 5th day of December, 19 75

/s/ Alexis Williams

Designated Agent.

NATIONAL LABOR RELATIONS BOARD

/s/ Debra Navejas

☆ U.S. GOVERNMENT PRINTING OFFICE: 1975—669-473

19

LAW OFFICES OF
O'MELVENY & MYERS
611 WEST SIXTH STREET
LOS ANGELES, CALIFORNIA 90017
TELEPHONE (213) 620-1120
TELEX 67-4122
CABLE ADDRESS "OMMS"

December
19th
1 9 7 5

MAYNARD J. TOLL
SIDNEY H. WALL
RICHARD C. BERGEN
DEANE F. JOHNSON
JAMES C. GREENE
PHILIP F. WESTBROOK
CLYDE E. TRITT
WARREN CHRISTOPHER
EVERETT B. CLARK
BENNETT W. PRIEST
JAMES E. CROSS
HUGH L. MACNEIL
R. BRADBURY CLARK
BARTON BEEK
CHARLES G. BAKALY, JR.
WILLIAM W. VAUGHN
RICHARD E. SHERWOOD
PHILIP C. IRWIN
ALLYN O. KREPS
DONALD V. PETRONI
DONALD R. HODGMAN
RICHARD S. VOLPERT
JOHN H. RONEY
DOUGLAS F. RICHARDSON
JOHN B. BERTERO, JR.
HENRY C. THUMANN
LAWRENCE J. SHEEHAN
PAUL B. HANNON
DONALD M. WESSLING
JOHN B. POWER
RICHARD C. AARMES
EDWARD J. MEANEY
RICHARD C. WHITE
SOLOMON M. KAHN
STANTON H. ZAPPONE
WILLIAM D. GOULD
WILLIAM F. KRAMER
CHARLES W. BENDER
GIRARD E. BOUDREAU, JR.
DONALD R. SPUEHLER
GUIDO R. HENRY, JR.
CHARLES F. SMETH
KENDALL P. BISHOP
JAMES R. UKROPINA
RALPH W. DAU
PATRICK LYNCH
DAVID D. WATTS
B. BOYD HIGHT, JR.
STEPHEN J. STERN
JERRY W. CARLTON
PETER W. BLACKMAN
FREDERICK B. McLANE

HENRY O'MELVENY 1885-1944
WM. J. MYERS 1927-1950
JOHN O'MELVENY
HARRY M. DUNN
PIERCE WORKS
HOWER WITTEN
WILLIAM E. CARMAN
RAY M. LINDMAN
GEORGE F. ELWOOD
GABRIEL C. DUDLEY, JR.
OF COUNSEL

WEST LOS ANGELES OFFICE
800 CENTURY PARK EAST
LOS ANGELES, CALIFORNIA 90067
TELEPHONE (213) 553-6700
TELEX: 67-4097

EUROPEAN OFFICE
4 PLACE DE LA CONCORDE
PARIS 8e, FRANCE
TELEPHONE 265 39-33
TELEX: 842-66715

OUR FILE NUMBER
126,240-45

Abraham Siegel, Esq.
Regional Director
National Labor Relations Board
Region 31
11000 Wilshire Boulevard
Los Angeles, California 90024

Re: CBS Inc. and I.B.E.W., et al.,
Case No. 31-CA-5587

Dear Mr. Siegel:

In accordance with our telephone conversation of this date, I am hereby requesting an additional 30 days to file an Answer on behalf of CBS Inc. in the above matter, until January 19, 1976.

This request for an extension of time to file an Answer is for good cause, and is based upon the following facts. O'Melveny & Myers was not retained in connection with the above matter until December 12, 1975, and did not receive a copy of the Complaint until December 18, 1975. Proper preparation of a complete and adequate Answer will require review of the entire record herein and investigation of the decisions of the National Labor Relations Board and the federal courts relevant to the legal questions arising therefrom. Accordingly, due to the complexity of those legal questions, and further due to an immediate demand on my time by other long outstanding matters of importance, CBS Inc. will require the additional amount of time to file an Answer which is requested in this letter.

GC Exh 1(g)

#2--Abraham Siegel, Esq.--12/19/75

Thank you for your consideration of the above request.

Very truly yours,

Charles G. Bakaly

CGB:ebh
DELIVERED BY MESSENGER

cc: All Parties

REQUEST HEREBY GRANTED

_____
Abraham Siegel, Regional Director

UNITED STATES OF AMERICA
BEFORE THE NATIONAL LABOR RELATIONS BOARD
Region 31

CBS INC.

and

Case No. 31-CA-5587

INTERNATIONAL BROTHERHOOD OF ELECTRICAL WORKERS, AFL-CIO, AND LOCAL 4, LOCAL 45, LOCAL 202, LOCAL 1200, LOCAL 1212, LOCAL 1220, AND LOCAL 1228, INTERNATIONAL BROTHERHOOD OF ELECTRICAL WORKERS, AFL-CIO

ORDER EXTENDING TIME FOR FILING ANSWER TO COMPLAINT

At the request of Counsel for Respondent, and for proper cause shown, it is hereby ordered that the time for filing Answer to the Complaint be, and it hereby is, extended to January 19, 1976.

DATED at Los Angeles, California, this 22nd day of December 1975.

Abraham Siegel, Regional Director
National Labor Relations Board
Region 31

CCEth KH

Form NLRB-877
(11-56)

# UNITED STATES OF AMERICA
# BEFORE THE NATIONAL LABOR RELATIONS BOARD

mw

CBS INC.

and

INTERNATIONAL BROTHERHOOD OF ELECTRICAL WORKERS, AFL-CIO, AND LOCAL 4, LOCAL 45, LOCAL 202, LOCAL 1200, LOCAL 1212, LOCAL 1220, AND LOCAL 1228, INTERNATIONAL BROTHERHOOD OF ELECTRICAL WORKERS, AFL-CIO

Case No. 31-CA-5587

## AFFIDAVIT OF SERVICE OF ORDER EXTENDING TIME FOR FILING ANSWER

## DATE OF MAILING December 22, 1975

I, the undersigned employee of the National Labor Relations Board, being duly sworn, depose and say that on the date indicated above I served the above-entitled document(s) by post-paid ~~registered~~/certified mail upon the following persons, addressed to them at the following addresses:

Stephen M. Koppekin, Esquire
CBS Inc., Law Department
51 West 52nd Street
New York, New York 10019
(375,914) (Airmail)

Richard Davis, Jr., Esquire
Brundage, Beeson & Pappy
1625 West Olympic Boulevard
Los Angeles, CA 90015
(375,915)

Laurence Cohen, Esquire
Sherman, Dunn, Cohen & Lecefer
1125 15th Street, N. W.
Washington, D. C. 20005
(375,916) (Airmail)

Charles G. Bakaly, Esquire
O'Melveny & Myers
611 West Sixth Street
Los Angeles, CA 90017
(375,917)

ORDINARY MAIL:

CBS Inc.
51 West 52nd Street
New York, New York 10019
(Airmail)

Local 45, IBEW, AFL-CIO
3518 Chauenga Blvd. West
Hollywood, CA 90028

Local 202, IBEW, AFL-CIO
210 Mississippi Street
San Francisco, CA 94197 (Airmail)

Local 1212, IBEW, AFL-CIO
230 West 41st Street
New York, New York 10036 (Airmail)

Local 1220, IBEW, AFL-CIO
203 North Wabash Avenue
Chicago, ILL 60601 (Airmail)

Local 1228, IBEW, AFL-CIO
353 Washington Street
Brighton, MASS 02135 (Airmail)

Local 4, IBEW, AFL-CIO
1516 South Brentwood Blvd.
Brentwood, MO 63144 (Airmail)

Local 1200, IBEW, AFL-CIO
2401 Blue Ridge Avenue
Wheaton, Maryland 20902 (Airmail)

International Brotherhood of
Electrical Workers, AFL-CIO
1125 15th Street, N. W.
Washington, D. C. 20005 (Airmail)

Subscribed and sworn to before me

this 22nd day of December, 19 75

/s/Glenda Williams
Designated Agent.

NATIONAL LABOR RELATIONS BOARD

/s/ Susan Vavrick

☆ U.S. GOVERNMENT PRINTING OFFICE: 1975—660-473

CCFth 1(2)

O'MELVENY & MYERS
611 WEST SIXTH STREET
LOS ANGELES, CALIF. 90017
620-1120

Attorneys for Employer

UNITED STATES OF AMERICA
BEFORE THE NATIONAL LABOR RELATIONS BOARD
Region 31

CBS INC.

and

| | |
|---|---|
| INTERNATIONAL BROTHERHOOD OF ELECTRICAL WORKERS, AFL-CIO, AND LOCAL LOCAL 45, LOCAL 202, LOCAL 1200, LOCAL 1212, LOCAL 1220, AND LOCAL 1228, INTERNATIONAL BROTHERHOOD OF ELECTRICAL WORKERS, AFL-CIO | Case No. 31-CA-5587<br>ANSWER TO COMPLAINT |

The Respondent, CBS Inc., for its answer to the complaint herein, admits, denies, and alleges as follows:

1. Admits each and every allegation contained in Paragraphs 1, 2, 3, 4, 5, 6, and 9 of said complaint.

2. Denies each and every allegation contained in Paragraphs 13, 14, 15, and 16 thereof and each of them.

3. Denies each and every allegation contained in Paragraph 7 thereof, except admits and alleges as follows:

GC Exh 1(g)

That all technicians of the Respondent employed pursuant to the 1972 Agreement constitute a unit appropriate for collective bargaining within the meaning of §9(b) of the Act.

4. Denies each and every allegation contained in Paragraph 8 thereof, except admits and alleges as follows:

At all times meterial herein, and continuing to date, the charging parties, herein called the Unions, have been the exclusive representatives for the purposes of collective bargaining of the employees in the unit described above in paragraph 3 hereof, and, by virtue of Section 9(a) of the Act, have been, and are now, the exclusive representatives of all the employees in said unit for the purposes of collective bargaining with respect to rates of pay, wages, hours of employment, and other terms and conditions of employment.

5. Denies each and every allegation contained in Paragraph 10 thereof, except alleges as follows:

Since on or about September 8, 1975, and continuing until on or about September 30, 1975, representatives of The National Association of Broadcast Engineers and Technicians, AFL-CIO, herein called NABET, with representatives of the Unions, were physically present in a room in San Diego, California wherein representatives of the Respondent were attempting to participate in collective-bargaining negotiations with the representatives of the Unions.

6. Denies each and every allegation contained in

Paragraph 11 thereof, except alleges as follows:

From on or about September 8, 1975, and continuing until on or about September 30, 1975, representatives of the Unions, with NABET representatives described above in Paragraph 5 hereof, were from time to time physically present in a room in San Diego, California wherein representatives of Respondent were attempting to participate in collective-bargaining negotiations with the representatives of the Unions. Throughout said time period, the Unions insisted that Respondent bargain with the Unions while representatives of NABET were present.

7. Denies each and every allegation contained in Paragraph 12 thereof, except admits and alleges as follows:

Respondent has at all times material herein indicated its willingness and readiness to recognize and meet with the Unions to negotiate and discuss the terms of a collective-bargaining agreement in any setting wherein there does not exist a clear and present impediment to the bargaining process, such as the presence of representatives of NABET, which has no collective-bargaining agreements with Respondent, which does not represent any of Respondent's employees, and which does represent employees of Respondent's major competitors.

WHEREFORE, Respondent prays that the complaint be dismissed.

DATED: January 19, 1976

Respectfully submitted,

O'MELVENY & MYERS
CHARLES G. BAKALY
ROBERT A. SIEGEL

By Robert A. Siegel
Robert A. Siegel
Attorneys for Employer
CBS Inc.

STATE OF CALIFORNIA )
) SS
COUNTY OF LOS ANGELES )

MARILYN TORTORICE , being first duly sworn deposes and says:

That affiant is and was, at all times herein mentioned, a citizen of the United States and a resident of the County of Los Angeles, over the age of eighteen (18) years, and not a party to or interested in the within action; that affiant's business address is 3900 Crocker Bank Plaza, 611 West Sixth Street, Los Angeles, California 90017.

That on January 19 , 1976 , affiant served the within

ANSWER TO COMPLAINT

upon counsel named below by depositing a true copy thereof in a United States mail box at Los Angeles, California, in a sealed envelope with postage thereon fully prepaid and addressed as follows:

SEE ATTACHED LIST.

That there is a regular communication by mail between the place of mailing and the place so addressed.

Marilyn Tortorice

Subscribed and sworn to before me
this 19th day of January , 1976 .

Eric B. Friedman
Notary Public in and for the State of California

Stephen M. Koppekin, Esquire
CBS Inc., Law Department
51 West 52nd Street
New York, New York 10019

Local 45, IBEW, AFL-CIO
3518 Chauenga Boulevard West
Hollywood, CA. 90028

Local 202, IBEW, AFL-CIO
210 Mississippi Street
San Francisco, CA. 94197

Local 1212, IBEW, AFL-CIO
230 West 41st Street
New York, New York 10036

Local 1220, IBEW, AFL-CIO
203 North Wabash Avenue
Chicago, IL. 60601

Local 1228, IBEW, AFL-CIO
353 Washington Street
Brighton, MASS. 02135

Local 4, IBEW, AFL-CIO
1516 South Brentwood Boulevard
Brentwood, MO. 63144

Local 1200, IBEW, AFL-CIO
2401 Blue Ridge Avenue
Wheaton, MD. 20902

International Brotherhood of
Electrical Workers, AFL-CIO
1125 15th Street, N.W.
Washington, D. C. 20005

Richard Davis, Jr., Esquire
Brundage, Beeson & Pappy
1625 West Olympic Boulevard
Los Angeles, CA. 90015

Laurence Cohen, Esquire
Sherman, Dunn, Cohen & Lecefer
1125 15th Street, N.W.
Washington, D. C. 20005

O'MELVENY & MYERS
611 WEST SIXTH STREET
LOS ANGELES, CALIF. 90017
620-1120
Attorneys for Employer

UNITED STATES OF AMERICA
BEFORE THE NATIONAL LABOR RELATIONS BOARD
Region 31

| | |
|---|---|
| CBS INC.<br><br>and<br><br>INTERNATIONAL BROTHERHOOD OF ELECTRICAL WORKERS, AFL-CIO, AND LOCAL 4, LOCAL 45, LOCAL 202, LOCAL 1200, LOCAL 1212, LOCAL 1220, AND LOCAL 1228, INTERNATIONAL BROTHERHOOD OF ELECTRICAL WORKERS, AFL-CIO | CASE NO. 31-CA-5587<br><br>AMENDED ANSWER TO COMPLAINT |

The Respondent, CBS Inc., for its answer to the complaint herein, admits, denies, and alleges as follows:

1. Admits each and every allegation contained in Paragraphs 1, 2, 3, 4, 5, 6, and 9 of said complaint.

2. Denies each and every allegation contained in Paragraphs 13, 14, 15, and 16 thereof and each of them.

3. Denies each and every allegation contained in Paragraph 7 thereof, except admits and alleges as follows:

GC Exh (K)

That all technicians of the Respondent employed pursuant to the 1972 Agreement constitute a unit appropriate for collective bargaining within the meaning of §9(b) of the Act.

4. Denies each and every allegation contained in Paragraph 8 thereof, except admits and alleges as follows:

At all times material herein, and continuing to date, the charging parties, herein called the Unions, have been the exclusive representatives for the purposes of collective bargaining of the employees in the unit described above in paragraph 3 hereof, and, by virtue of Section 9(a) of the Act, have been, and are now, the exclusive representatives of all the employees in said unit for the purposes of collective bargaining with respect to rates of pay, wages, hours of employment, and other terms and conditions of employment.

5. Denies each and every allegation contained in Paragraph 10 thereof, except alleges as follows:

Since on or about September 8, 1975, and continuing until on or about September 30, 1975, representatives of The National Association of Broadcast Engineers and Technicians, AFL-CIO, herein called NABET, with representatives of the Unions, were physically present in a room in San Diego, California wherein representatives of the Respondent were attempting to participate in collective-bargaining negotiations with the representatives of the Unions.

6. Denies each and every allegation contained in

Paragraph 11 thereof, except alleges as follows:

From on or about September 8, 1975, and continuing until on or about September 30, 1975, representatives of the Unions, with NABET representatives described above in Paragraph 5 hereof, were from time to time physically present in a room in San Diego, California wherein representatives of Respondent were attempting to participate in collective-bargaining negotiations with the representatives of the Unions. Throughout said time period, the Unions insisted that Respondent bargain with the Unions while representatives of NEBET were present.

7. Denies each and every allegation contained in Paragraph 12 thereof, except admits and alleges as follows:

Respondent has at all times material herein indicated its willingness and readiness to recognize and meet with the Unions to negotiate and discuss the terms of a collective-bargaining agreement in any setting wherein there does not exist a clear and present impediment to the bargaining process, such as the presence of representatives of NABET, which has no collective-bargaining agreements with Respondent, which does not represent any of Respondent's employees, and which does represent employees of Respondent's major competitors.

AS AND FOR AFFIRMATIVE DEFENSE HEREIN, RESPONDENT ALLEGES"

STATE OF CALIFORNIA )
) SS
COUNTY OF LOS ANGELES )

MARILYN TORTORICE , being first duly sworn deposes and says:

That affiant is and was, at all times herein mentioned, a citizen of the United States and a resident of the County of Los Angeles, over the age of eighteen (18) years, and not a party to or interested in the within action; that affiant's business address is 3900 Crocker Bank Plaza, 611 West Sixth Street, Los Angeles, California 90017.

That on February 17 , 1976 , affiant served the within

AMENDED ANSWER TO COMPLAINT

upon counsel named below by depositing a true copy thereof in a United States mail box at Los Angeles, California, in a sealed envelope with postage thereon fully prepaid and addressed as follows:

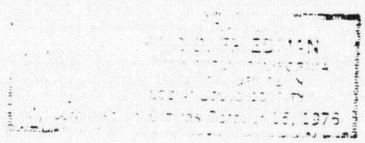
SEE ATTACHED LIST.

That there is a regular communication by mail between the place of mailing and the place so addressed.

Marilyn Tortorice

Subscribed and sworn to before me
this 17th day of February , 1976 .

Eric B. Friedman
Notary Public in and for the State of California



FIRST

1. Respondent's conduct at all times material herein was privileged, due to the clear and present impediment to the bargaining process created by the Unions when they insisted that Respondent bargain with them while representatives of NABET were present.

WHEREFORE, Respondent prays that the complaint be dismissed.

DATED: February 17, 1976

Respectfully submitted,

O'MELVENY & MYERS
CHARLES G. BAKALY
ROBERT A. SIEGEL

By _____
Robert A. Siegel
Attorneys for Employer
CBS Inc.

Stephen M. Koppekin, Esquire
CBS Inc., Law Department
51 West 52nd Street
New York, New York 10019

Local 45, IBEW, AFL-CIO
3518 Chauenga Boulevard West
Hollywood, CA. 90028

Local 202, IBEW, AFL-CIO
210 Mississippi Street
San Francisco, CA. 94197

Local 1212, IBEW, AFL-CIO
230 West 41st Street
New York, New York 10036

Local 1220, IBEW, AFL-CIO
203 North Wabash Avenue
Chicago, IL. 60601

Local 1228, IBEW, AFL-CIO
353 Washington Street
Brighton, MASS. 02135

Local 4, IBEW, AFL-CIO
1516 South Brentwood Boulevard
Brentwood, MO. 63144

Local 1200, IBEW, AFL-CIO
2401 Blue Ridge Avenue
Wheaton, MD. 20902

International Brotherhood of
Electrical Workers, AFL-CIO
1125 15th Street, N.W.
Washington, D. C. 20005

Richard Davis, Jr., Esquire
Brundage, Beeson & Pappy
1625 West Olympic Boulevard
Los Angeles, CA. 90015

Laurence Cohen, Esquire
Sherman, Dunn, Cohen & Lecefer
1125 15th Street, N.W.
Washington, D. C. 20005

Attorneys for Employer-Respondent
CBS Inc.

UNITED STATES OF AMERICA

BEFORE THE WEST COAST PRESIDING JUDGE

DIVISION OF JUDGES

NATIONAL LABOR RELATIONS BOARD

| | |
|---|---|
| CBS INC.<br><br>and<br><br>INTERNATIONAL BROTHERHOOD OF ELECTRICAL WORKERS, AFL-CIO, AND LOCAL 4, LOCAL 45, LOCAL 202, LOCAL 1200, LOCAL 1212, LOCAL 1220, AND LOCAL 1228, INTERNATIONAL AFL-CIO | Case No. 31-CA-5537 |

MOTION FOR PROTECTIVE ORDER; MEMORANDUM OF POINTS AND AUTHORITIES AND AFFIDAVIT OF JAMES F. SIRMONS IN SUPPORT THEREOF

GC Exh 1(g)

O'MELVENY & MYERS
611 WEST SIXTH STREET
LOS ANGELES, CALIF. 90017
620-1120
Attorneys for Employer-Respondent
CBS Inc.

UNITED STATES OF AMERICA

BEFORE THE WEST COAST PRESIDING JUDGE

DIVISION OF JUDGES

NATIONAL LABOR RELATIONS BOARD

| | |
|---|---|
| CBS INC.<br><br>and<br><br>INTERNATIONAL BROTHERHOOD OF ELECTRICAL WORKERS, AFL-CIO, AND LOCAL 4, LOCAL 45, LOCAL 202, LOCAL 1200, LOCAL 1212, LOCAL 1220, AND LOCAL 1228, INTERNATIONAL AFL-CIO | Case No. 31-CA-5587<br><br>MOTION FOR PROTECTIVE ORDER; MEMORANDUM OF POINTS AND AUTHORITIES AND AFFIDAVIT OF JAMES F. SIRMONS IN SUPPORT THEREOF |

Pursuant to §§ 102.24 and 102.34 of the Rules and Regulations and Statements of Procedure, National Labor Relations Board, Series 8, as amended, respondent CBS Inc. (hereinafter "CBS") hereby petitions the West Coast Presiding Judge, Division of Judges, National Labor Relations Board, for a protective order in connection with the hearing scheduled in the above-named matter in Los Angeles, California on February 24, 1976. It is requested that said protective order provide that:

(1) The parties' use of a private transcript shall be barred during the taking of testimony and

exhibits which disclose or tend to disclose confidential information regarding the business of CBS;

(2) The record in connection with the taking of said testimony and exhibits shall be sealed, and opened only pursuant to an appropriate order by the National Labor Relations Board, Washington, D. C., upon 10-days' notice to the parties, which order shall allow access to the record only by (i) the parties and their legal counsel, (ii) the administrative law judge conducting the hearing, (iii) the members of the National Labor Relations Board, and (iv) any court with jurisdiction over the instant dispute;

(3) The hearing shall be closed during the taking of said testimony and exhibits to all persons except (i) the parties and their legal counsel, (ii) the court reporter, and (iii) the administrative law judge conducting the hearing; and

(4) The aforenamed persons present during the taking of said testimony and exhibits, or allowed access to the record in connection therewith, shall not communicate confidential information derived from such presence or access to any other persons in any manner, including, but not limited to, by means of any judicial opinion rendered herein.

For the purpose of this Motion, "the parties" refers to the charging parties herein (the International Brotherhood of Electrical Workers, AFL-CIO and seven of its locals), and respondent (CBS),

and the Office of the General Counsel, National Labor Relations Board.

CBS moves for the above protective order in order to ensure that all relevant evidence will be presented at the aforementioned hearing scheduled for February 24, 1976.

I. PRELIMINARY STATEMENT

The facts relevant to CBS' motion are presented in the supporting affidavit of James F. Simmons served and filed herewith. In brief summary, they are as follows.

Effective on or about October 1, 1972, CBS and the charging parties herein, the International Brotherhood of Electrical Workers, AFL-CIO and seven of its locals (hereinafter the "Unions"), entered into a collective-bargaining agreement (hereinafter the "1972 Agreement") which was effective by its terms to and including September 30, 1975. During negotiations for the 1972 Agreement, in order fully to support its proposals it was necessary for CBS to divulge to the Unions information regarding the existence of a new portable electronic camera, and plans for the use thereof in broadcasting live news events immediately as they occur. That information was necessarily confidential due to the intensely competitive nature of the television news industry. Because CBS' competitors were not aware of its plans, CBS gained valuable "lead time" over them, during which period CBS was the only network using an electronic camera and broadcasting live news coverage. As a result, CBS was able to attract and retain an increased share of the viewer audience, as well as enhance its image as an innovative leader in the use of new technology.

On or about September 3, 1975, the Unions and CBS met in San Diego, California in order to engage in collective-bargaining negotiations for a new contract to replace the 1972 Agreement. In order fully to support proposals for a number of changes in

the 1972 Agreement, CBS again planned to provide the Unions with extensive confidential information regarding technological innovations. However, on September 8, 1975, the Unions introduced as a member of their negotiating committee a Mr. Nolan, an International representative of the National Association of Broadcast Engineers and Technicians, AFL-CIO (hereinafter "NABET"). Because NABET at all times material herein had no collective bargaining agreements with CBS, represented no employees of CBS, and did represent employees of CBS' major competitors, ABC and NBC, CBS contended that the presence of a NABET representative precluded full and open discussion of CBS' proposals, which as stated above necessarily were going to include revelation of confidential information regarding technological innovations.

The Unions insisted, however, that CBS bargain with their committee with the NABET representative present. Accordingly, on September 9, 1975, CBS filed an unfair labor practice charge, alleging that the Unions had refused to bargain collectively in violation of Section 8(b)(3) of the National Labor Relations Act (hereinafter the "Act"). On September 11, 1975 the Unions filed their own unfair labor practice charge, alleging that CBS had refused to bargain collectively in violation of Sections 8(a)(5) and (1) of the Act.

On December 5, 1975 the Regional Director of Region 31, National Labor Relations Board, issued the complaint involved herein, based upon the charges filed by the Unions. A hearing in Los Angeles, California before an administrative law judge has been scheduled for February 24, 1976.

II. AN ADMINISTRATIVE LAW JUDGE POSSESSES THE AUTHORITY TO GRANT THE PROTECTIVE ORDER SOUGHT HEREBY.

The rules of the National Labor Relations Board expressly allow for an order by an administrative law judge directing a closed hearing. Moreover, such a practice, and the other protective measures sought hereby, are consistent with procedure in federal district courts, to which the Act makes reference for guidance in the conduct of unfair labor practice hearings.

Section 102.34 of the Rules and Regulations and Statements of Procedure, National Labor Relations Board, Series 8, as amended (hereinafter the "N.L.R.B. Rules"), provides in part:

> "Such [unfair labor practice] hearing shall be public unless otherwise ordered by the Board or the administrative law judge."

Furthermore, Section 10(b) of the Act provides:

> ". . . Any such [unfair labor practice] proceeding shall, so far as practicable, be conducted in accordance with the rules of evidence applicable in the district courts of the United States under the rules of civil procedure for the district courts of the United States, adopted by the Supreme Court of the United States pursuant to section 2072 of Title 28."

Under the rules of evidence and civil procedure referred to in Section 10(b), it is widely recognized that while confidential information is not absolutely privileged, it is properly subject to an order safeguarding its disclosure. See, DuPont de Nemours Powder Co. v. Mosland, 244 U.S. 100 (1916); Segal Lock & Hardware Co. v. FTC, 143 F.2d 935, 937 (2d Cir. 1944); Wright & Miller, Federal Practice and Procedure: Civil § 2043; 8 Wigmore § 2212(3) (McNaughton Rev. 1961).*

For example, in connection with discovery proceedings, federal district courts have consistently issued orders protecting parties from public disclosure of their confidential business secrets. See, e.g., Convey Oil Company v. Continental Oil Company, 340 F.2d 993 (10th Cir. 1965), cert. denied, 380 U.S. 964 (1965), and Marshwood Co. v. Jamie Mills, Inc., 10 F.R.D. 386 (N.D. Ohio 1950) [orders limiting right to presence at depositions and sealing transcripts thereof]; Julius M. Ames Co. v. Bosfitch, Inc., 233 F. Supp. 856 (S.D. N.Y. 1964) [order limiting access to interrogatory answers and directing persons with such access not to disclose information gained therefrom]. Indeed, the express terms of Fed. R. Civ. P. 26(c) expressly provide for such protective orders:

> "Upon motion by a party or by the person from whom discovery is sought, and for good cause shown,

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* Fed. Rules Evid. Rule 501, 28 U.S.C.A. provides that the matter of privilege "shall be governed by the principles of the common law as they may be interpreted by the courts of the United States in the light of reason and experience."

> the court . . . may make any order which justice requires to protect a party or person from annoyance, embarrassment, oppression, or undue burden or expense, including one or more of the following:
>
> * * *
>
> (5) that discovery be conducted with no one present except persons designated by the court; (6) that a deposition after being sealed be opened only by order of the court; (7) that a trade secret or other confidential research, development, or commercial information not be disclosed or be disclosed only in a designated way; . . . ." (Emphasis added.)

Protective measures have been extended to the trial stage as well. In actions involving business secrets, it is common practice for federal courts to order in camera hearings with sealed records. See, e.g., John T. Lloyd Laboratories, Inc. v. Lloyd Bros. Pharm., 131 F.2d 703, 707 (6th Cir. 1942); American Dirigold Corp. v. Dirigold Metals Corp., 104 F.2d 863, 865 (6th Cir. 1939); A. O. Smith Corporation v. Petroleum Iron Works Co. of Ohio, 73 F.2d 531, 539 (6th Cir. 1934); E. L. Bruce Co. v. Bradley Lumber Co. of Arkansas, 79 F. Supp. 176, 188 (W.D. Ark. 1948). See generally, Annotation, "In Camera Trial and Other Procedures to Safeguard Trade Secrets or the Like Against Undue Disclosure," 62 A.L.R.2d 509 (1958).

Thus, under the provisions of both the N.L.R.B. Rules and the rules of evidence and civil procedure in federal courts, to which the Act makes reference for guidance, an administrative law judge does have the authority to grant the protective order sought hereby.

III. AS AN EXERCISE OF HIS AUTHORITY, AN ADMINISTRATIVE LAW JUDGE SHOULD GRANT THE PROTECTIVE ORDER SOUGHT HEREBY.

It is an administrative law judge's obligation to provide a fair hearing in which all parties may testify fully under appropriate conditions. Only then will the parties' and the public's confidence in the fairness of the proceedings be ensured. See, e.g., NLRB v. Burke Mach. Tool Co., 133 F.2d 618 (6th Cir. 1943), wherein the Sixth Circuit disapproved of the trial examiner's denial of a motion for sequestration of witnesses during an unfair labor practice hearing, stating:

> "Rulings as to the reception of evidence and the general conduct of hearings should . . . reflect an endeavor to impress the employer, as well as the employees, that every reasonable effort has been made to enable all parties to present their theory of what has transpired." 133 F.2d at 62.

See also, Graber Manufacturing Company, Inc v. Dixon, 223 F. Supp. 1020 (D. D.C. 1963) in which the trial examiner's refusal in a Federal Trade Commission hearing to accord permanent in camera status to respondent's confidential business secrets was held to be an abuse of discretion.*

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* The court observed, in words applicable to the instant case:

> "Further, with this sword of public disclosure held over the heads of alleged offenders, the Commission is in a position to coerce the signing of consent decrees, by threating a lengthy and public complaint, and hearings. (Cont'd. next page.)

In the instant case, there exists a need for accommodation between protecting CBS' business secrets, on the one hand, and presenting facts required for full presentation of CBS' defense, on the other hand. In order to effect that accommodation, and thereby ensure the fairness of the hearing, an administrative law judge should grant the protective order sought hereby.

In an effort to prove the validity of its contention regarding the effect of a NABET representative's presence upon the bargaining process, it will be necessary for CBS to present specific examples of the confidential information it intended to disclose in support of its proposals during the 1975 Negotiations. However, for the same reasons CBS was unable to disclose such information in the presence of a NABET representative, it is likewise presently unable to disclose such information at a public hearing with an open record. Confidentiality is absolutely imperative due to the intensely competitive nature of the television industry. As stated above and in the Affidavit of James F. Sirmons filed herewith, it is CBS' experience that by maintaining the confidentiality of its plans for technological innovations, it gains valuable "lead time" over its competitors. During that period, CBS is the only network using new equipment and providing new broadcasting services. As a result, CBS is able to attract and retain an increased share of the viewer audience, as well as enhance its image as an innovative leader in the use of new technology. To discontinue said confidentiality would to be

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* (cont'd.) Thus, defending a complaint, even with a valid defense, may be more damaging than signing a consent decree." 223 F. Supp. at 1020.

forfeit competitive advantages CBS has worked diligently for many years to obtain.

Thus, denial of the protective order sought hereby will place CBS in an impossible situation: its only alternatives will be either not to present a defense, or to waive all its contentions regarding confidentiality. Such a waiver would, at the outset, destroy the very right CBS intends to assert as a substantive defense. Conversely, granting the protective order sought hereby will ensure CBS an opportunity fully to be heard and will in no manner burden or prejudice the interests of the Unions and the General Counsel.* It must be stressed that CBS is not attempting to resist production of confidential business information; on the contrary, CBS desires to produce such information, and is simply requesting conditions appropriate therefor. Hence, in the circumstances of the instant case, there is no persuasive reason to deny the present motion.

Accordingly, as an exercise of his authority pursuant to standards discussed above, an administrative law judge should grant the protective order sought hereby.

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* In the context of criminal prosecutions, it has been said, "The Sixth Amendment right to a public trial is a right of the accused, and of the accused only." Geise v. United States, 265 F.2d 659, 660 (9th Cir. 1959). (Emphasis added.)

IV. CONCLUSION

For all of the reasons set forth above, it is respectfully requested the CBS' motion for a protective order be granted.

DATED: February 17, 1976.

Respectfully submitted,

O'MELVENY & MYERS
CHARLES G. BAKALY
ROBERT A. SIEGEL

By _____
Robert A. Siegel
Attorneys for Employer-Respondent
CBS Inc.

AFFIDAVIT

STATE OF CALIFORNIA )
) SS:
COUNTY OF SAN DIEGO )

JAMES F. SIRMONS, being first duly sworn, deposes and says:

1. I reside at 240 Benedict Hill Road, New Canaan, Connecticut 06840. At present I hold the position of Vice President, Industrial Relations, CBS Inc. (hereinafter "CBS") and I have held that position since 1969. I am responsible for industrial relations matters at CBS, including the negotiation and administration of collective-bargaining agreements.

2. Effective on or about October 1, 1972, the charging parties herein, the International Brotherhood of Electrical Workers, AFL-CIO and seven of its locals (hereinafter the "Unions"), and respondent CBS entered into a collective-bargaining agreement (hereinafter the "1972 Agreement") which was effective by its terms to and including September 30, 1975.

3. During negotiations for the 1972 Agreement (hereinafter the "1972 Negotiations"), in order fully to support its proposals for changes in the provisions of the then existing contract between the parties, it was necessary for CBS to place major emphasis upon, and divulge, confidential information regarding the existence of sophisticated new technology, and plans for the innovative use thereof.

For example, CBS intended to begin using in the summer of 1973 a portable electronic news-gathering camera (hereinafter the "E.N.G. Camera") which was then under development by Ikegami, Inc. (hereinafter "Ikegami"), a Japanese based corporation.* The E.N.G. Camera was to be used in broadcasting live coverage of news events immediately as they occur. Because live news coverage would require flexible work schedules, during the 1972 Negotiations CBS informed the Unions that an E.N.G. Camera was in final stages of development, and proposed a relaxation of the requirements of the then existing meal periods provision in the parties' contract. When the Unions expressed skepticism, it became necessary for CBS actually to produce a prototype of a similar camera, and to disclose confidential plans for the innovative use thereof.

Those confidential plans which were disclosed included information regarding the anticipated use of the E.N.G. Camera in conjunction with a new "window" microwave transmitter which would allow the E.N.G. Camera to operate inside a building and then immediately transmit through any window to a nearby base station, such as a mobile van. Also, it was disclosed that a new "four horn polarized receiving antenna" would be used at the studio in order to achieve 360° microwave pick-up from the mobile base station, and thereby render live news coverage more feasible and practical.**

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* Ikegami subsequently modified the E.N.G. Camera to CBS' specifications for general manufacturing.

** While in the past both the sender and receiver of microwave transmissions were required directly to aim their antennae at each other in order to achieve the pick-up, with the new antenna system only the sender in the mobile base station would be required to be on duty to direct the transmission.

As a result of the disclosure of the confidential information set forth above during the 1972 Negotiations, the Unions agreed to modify the then existing meal periods provision of the parties' contract. Such modification was expressed in Supplementary Letter of Intent and Understanding No. 5 appended to the 1972 Agreement. CBS was thereby able to achieve the flexibility in work scheduling which was an absolute prerequisite to the use of the E.N.G. Camera as planned by CBS.

Confidentiality regarding the E.N.G. Camera was mandatory under standard non-disclosure understandings between potential customers and manufacturers who are mutually discussing developmental activity. Furthermore, confidentiality regarding the E.N.G. Camera and planned uses thereof was also necessary due to the intensely competitive nature of the television news industry. Because CBS' competitors were not aware of its plans for use of an E.N.G. Camera, CBS gained valuable "lead time" in broadcasting live news coverage.*

For example, during former President Nixon's visit to the Middle East in 1974, CBS was the only network using a live news camera and thus was the only network able immediately to broadcast coverage of events as they occurred. Other examples of news events in 1974 which CBS broadcast live, well ahead of its competitors, include coverage of the vigil outside the Hearst residence in San Francisco after the Patricia Hearst kidnapping,

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* ABC and NBC did not have similar equipment for over one year, until September, 1974. Moreover, presently CBS has 50 such cameras, while ABC has 21 and NBC has 6.

and local coverage of a serious train wreck in the Chicago transit system. Other stations covering those events with film cameras were obliged, before broadcast, to transport their film back to their stations for processing and editing.

Because it was the only network using an electronic camera for live news coverage, CBS was able to attract an increased share of the viewer audience. Moreover, CBS' enhanced image as an innovative leader in the use of new technology helped to retain a major portion of that audience even after CBS' competitors were also using similar equipment. Thus, by maintaining confidentiality regarding the E.N.G. Camera and planned uses thereof, CBS was able to improve its competitive position in the television industry.

4. The Unions have consistently recognized and agreed to the confidential nature of information disclosed by CBS regarding new technology and plans for the innovative use thereof. Indeed, during negotiations for the 1972 Agreement, the parties expressly recognized the need for an ongoing mechanism by which CBS could convey such information to the Unions on a confidential basis, and accordingly they provided for, and thereafter participated in, Quarterly Consultation Meetings for that purpose, as set forth in § 2.06 of the 1972 Agreement. The Unions have never breached their understanding of confidentiality with CBS by disclosing information gained from said meetings.

5. On or about September 3, 1975, the Unions and CBS met in San Diego, California in order to engage in collective-bargaining negotiations for a new contract to replace the 1972 Agreement. During the course of those negotiations (hereinafter referred to as the "1975 Negotiations"), CBS planned to provide

the Unions with confidential information to an extent even greater than during the 1972 Negotiations, in order fully to support proposals for a number of changes in the 1972 Agreement. However, on September 4, 1975, for the first time in said negotiations, and for the first time in approximately 35 years of bargaining history between the parties herein, the Unions introduced as members of their negotiating committee persons who were not affiliated with the Unions, to wit: representatives of the International Alliance of Theatrical and Stage Employees (hereinafter "IATSE"). At that time CBS objected to the presence of IATSE representatives, believing that good faith negotiations would be impeded because of the many jurisdictional disputes and contradictory claims which existed between the Unions and IATSE. However, because the IATSE does represent some CBS employees and is signatory to many contracts with CBS, CBS decided to continue bargaining, with all of its rights expressly reserved.

6. Thereafter, on September 8, 1975, the Unions introduced as a member of their negotiating committee a Mr. Nolan, an International representative of the National Association of Broadcast Engineers and Technicians, AFL-CIO (hereinafter "NABET"). CBS contended that the presence of a NABET representative constituted a clear and present impediment to the collective-bargaining negotiations because at all times material herein NABET had no collective bargaining agreements with CBS, represented no employees of CBS, and did represent employees of CBS' major competitors, ABC and NBC. Specifically, CBS contended that the presence of a NABET representative would prevent full and open discussion of CBS' proposals, which as stated above in Paragraph 5 necessarily were to include revelation of confidential information regarding

the innovative use of new technology.

7. Because certain public announcements were made in January, 1976 at The Society of Motion Picture, Television, Engineers convention, CBS is now able to discuss herein a small portion of the information it intended to disclose during the 1975 Negotiations.

One example involves an "Electronic Still Store System" (hereinafter the "Still Store") developed jointly by CBS and Ampex Corporation (hereinafter "Ampex"). The Still Store is able electronically to store a still visual in a computer memory, available for instant push-button retrival. Heretofore, a still visual was necessarily physically stored in slide or picture form. During the 1975 Negotiations, in anticipation of the introduction and use of the Still Store, CBS intended to propose a jurisdictional accommodation between technicians represented by the Unions and specialists either represented by other bargaining agents or not represented at all, in order to ensure the appropriate use of artistic talent in the various operations planned for the Still Store.* Thus, it was going to be necessary for CBS to disclose that a Still Store was in the final stages of development, and to disclose innovative plans for the use thereof.

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* CBS wanted clarification of the specialists' right to prepare the subject matter of the visual still and to focus the electronic camera thereon, before final activation of the camera by the Union technician.

Although CBS is now able to discuss herein the existence of the Still Store,* even at this date, as in September, 1975, CBS' plans for innovative use of the device remain confidential. Such confidentiality is necessary due both to a non-disclosure agreement with Ampex, and the intensely competitive nature of the television industry. As explained above in Paragraph 3, "lead time" in connection with innovative broadcasting techniques helps CBS stations attract and retain an increased share of the viewer audience.

A second example of information which CBS intended to disclose in support of its proposals during the 1975 Negotiations involves a "Microcam" electronic camera (hereinafter the "Microcam"), developed by CBS Laboratories and then transferred to C. F. Thompson, Inc. (hereinafter "Thompson"), a French based broadcast equipment manufacturer which purchased CBS Laboratories. The Microcam is a portable electronic news-gathering camera which requires less maintenance and less operating controls than the present generation of E.N.G. Cameras and is 1/2 the weight of said E.N.G. Cameras. CBS' plans for introduction and use of the Microcam in the summer of 1976, with minimal set-up time and energy required for operation thereof, were to be disclosed in support of a proposal that technicians working over-seas be paid at a flat daily rate, including "built-in" overtime, rather than at varying rates perscribed by the domestic wage schedule.

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* Ampex publically announced the development of the Still Store at the SMPTE convention in January, 1976.

In September, 1975, CBS' plans for use of the Microcam were necessarily confidential, due both to a nondisclosure agreement with Thompson and the intensely competitive nature of the television industry. In September, 1975 CBS' major competitors were still in the process of ordering the larger E.N.G. Cameras, and thus it was imperative that they not learn of CBS' plans for use of a new camera which was to be more mobile and more economical to operate. By maintaining confidentiality regarding the Microcam at that time, CBS has again gained valuable "lead time" in the use of improved equipment for the live broadcast of news events. It is anticipated during that time period CBS will again attract and retain an increased share of the viewer audience, in addition to reducing operating expenses below that of their competitors.*

8. Because the Unions insisted, notwithstanding the above facts regarding confidentiality, that CBS bargain with their committee with the NABET representative present, on September 9, 1975, CBS filed an unfair labor practice charge, alleging that the Unions had refused to bargain collectively in violation of Section 8(b)(3) of the Act. On September 11, 1975 the Unions filed their own unfair labor practice charge, alleging that CBS had refused to bargain collectively in violation of Sections 8(a)(5) and (1) of the Act.

9. On December 5, 1975 the Regional Director of Region 31, National Labor Relations Board, issued a complaint

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* Thompson publicly announced the development of the Microcam at the SMPTE convention in January, 1976.

herein, based upon the charges filed by the unions. A hearing before an Administrative Law Judge has been scheduled for February 24, 1976 in Los Angeles, California.

10. The facts set forth above in Paragraph 7 illustrate the type of confidential information which CBS could not reveal during the 1975 Negotiations in the presence of a NABET representative, a union which represents the employees of CBS' major competitors and which has no interest whatsoever in the economic viability of CBS. The balance of such information remains necessarily confidential to date, and will constitute the major portion of the evidence CBS plans to present during the aforementioned hearing on February 24, 1976.

11. However, for the same reason CBS was unable to disclose confidential information regarding future technological innovations in the presence of NABET, it is likewise unable to disclose such information at a public hearing with an open record. To do so would be to forfeit the competitive advantages which CBS has worked diligently to obtain. Thus, CBS is herewith filing a motion for an order to protect the confidentiality of the evidence it plans and desires to present during the aforementioned hearing. If the protective order is not granted, CBS will perforce be placed in an impossible situation: its only alternatives will be either simply not to present a defense, or to waive all its contentions regarding confidentiality.

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I declare under penalty of perjury that the foregoing is true and correct.

DATED: February 2, 1976.

JAMES F. SIRMONS

Subscribed and sworn to before me this 2nd day of February, 1976.

Notary Public in and for the State of California

OFFICIAL SEAL
BEVERLY A. RIFFE
NOTARY PUBLIC - CALIFORNIA
LOS ANGELES COUNTY
My Commission Expires June 3, 1979

STATE OF CALIFORNIA )
) ss
COUNTY OF LOS ANGELES )

MARILYN TORTORICE , being first duly sworn deposes and says:

That affiant is and was, at all times herein mentioned, a citizen of the United States and a resident of the County of Los Angeles, over the age of eighteen (18) years, and not a party to or interested in the within action; that affiant's business address is 3900 Crocker Bank Plaza, 611 West Sixth Street, Los Angeles, California 90017.

That on February 17 , 1976 , affiant served the within

MOTION FOR PROTECTIVE ORDER: MEMORANDUM OF POINTS AND AUTHORITIES AND AFFIDAVIT OF JAMES F. SIRMONS IN SUPPORT THEREOF

upon counsel named below by depositing a true copy thereof in a United States mail box at Los Angeles, California, in a sealed envelope with postage thereon fully prepaid and addressed as follows:

SEE ATTACHED LIST.

That there is a regular communication by mail between the place of mailing and the place so addressed.

Marilyn Tortorice

Subscribed and sworn to before me
this 17th day of February , 1976.

Eric B. Friedman
Notary Public in and for the State of California

Glenn A. Sunness, Esq.
National Labor Relations Board
Region 31
11000 Wilshire Blvd.
Los Angeles, CA. 90024

Stephen M. Koppekin, Esq.
CBS Inc., Law Separtment
51 West 52nd St.
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Local 45, IBEW, AFL-CIO
3518 Chauenga Blvd. West
Hollywood, CA. 90028

Local 202, IBEW, AFL-CIO
210 Mississippi St.
San Francisco, CA. 94197

Local 1212, IBEW, AFL-CIO
230 West 41st St.
New York, New York 10036

Local 1220, IBEW, AFL-CIO
203 North Wabash Avenue
Chicago, IL. 60601

Local 1228, IBEW, AFL-CIO
353 Washington ST.
Brighton, MASS. 02135

Local 4, IBEW, AFL-CIO
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Brentwood, MO. 63144

Local 1200, IBEW, AFL-CIO
2401 Blue Ridge Ave.
Wheaton, MD. 20902

International Brotherhood of
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Sherman, Dunn, Cohen & Lecefer
1125 15th St., N.W.
Washington, D.C. 20005

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**TELEGRAPHIC MESSAGE**

| NAME OF AGENCY | PRECEDENCE<br>ACTION:<br>INFO: | SECURITY CLASSIFICATION |
|---|---|---|
| ACCOUNTING CLASSIFICATION | DATE PREPARED<br>2/18/76 GAS/fk | TYPE OF MESSAGE<br>☐ SINGLE<br>☐ BOOK<br>☒ MULTIPLE-ADDRESS |
| FOR INFORMATION CALL | | |
| NAME<br>Sent by fk at 3:15 p.m. | PHONE NUMBER | |

*THIS SPACE FOR USE OF COMMUNICATION UNIT*

TELETYPE - MULTI

MESSAGE TO BE TRANSMITTED *(Use double spacing and all capital letters)*

~~XXX~~ FROM: GLENN A. SUNNESS, COUNSEL FOR THE GENERAL COUNSEL
NLRB, REGION 31, LOS ANGELES, CALIFORNIA

TO: WEST COAST PRESIDING JUDGE
NLRB DIVISION OF JUDGES (REPORT OF DELIVERY REQUESTED)
450 GOLDEN GATE AVE.
SAN FRANCISCO, CA 556-5071

STEPHEN M. KOPPEKIN, ESQUIRE
CBS INC., LAW DEPARTMENT (REPORT OF DELIVERY REQUESTED)
51 WEST 52ND STREET
NEW YORK, NY 10019

RICHARD DAVIS, JR., ESQUIRE
BRUNDAGE, BEESON & PAPPY (REPORT OF DELIVERY REQUESTED)
1625 WEST OLYMPIC BLVD.
LOS ANGELES, CA 90015 385-3071

LAURENCE COHEN, ESQUIRE (REPORT OF DELIVERY REQUESTED)
SHERMAN, DUNN, COHEN & LECEFER
1125 15th STREET, N.W.
WASHINGTON, D.C. 20005

CHARLES G. BAKALY, ESQUIRE
O'MELVENY & MYERS (REPORT OF DELIVERY REQUESTED)
611 WEST SIXTH STREET.
LOS ANGELES, CA 90017 620-1120

RE: CBS INC., CASE NO. 31-CA-5587. GENERAL COUNSEL URGES THAT RESPONDENT'S MOTION FOR PROTECTIVE ORDER BE REFERRED FOR RULING TO ADMINISTRATIVE LAW JUDGE ASSIGNED TO HEAR CASE. GENERAL COUNSEL IS CONFIDENT THAT RESPONDENT'S CONCERNS CAN BE ACCOMMODATED, BUT PROPOSES THAT RULING SHOULD BE ON POINT-BY-POINT BASIS

SECURITY CLASSIFICATION

| PAGE NO | NO. OF PGS |
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STANDARD FORM 14
REVISED AUGUST 1967
GSA FPMR (41 CFR) 101-35.306

GPO : 1973 — 495-857

14-306

GC Exh 1(m)

TELEGRAPHIC MESSAGE

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| NAME | PHONE NUMBER | |

THIS SPACE FOR USE OF COMMUNICATION UNIT

MESSAGE TO BE TRANSMITTED (Use double spacing and all capital letters)

TO:

FOLLOWING STATEMENT AND ARGUMENT OF COUNSEL ON RELATIVE MERITS OF VARIOUS SECTIONS OF PROTECTIVE ORDER PROPOSED.

| SECURITY CLASSIFICATION | | |
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| PAGE NO | NO OF PGS | |
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STANDARD FORM 14
REVISED AUGUST 1967
GSA FPMR (41 CFR) 101-35.306

GPO : 1973 — 495-857

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**TELEGRAPHIC MESSAGE**

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| NAME | PHONE NUMBER | |

*THIS SPACE FOR USE OF COMMUNICATION UNIT*

RECEIVED BY: BEVERLY -- TIME: 2:50 p.m. -- FEB. 20, 1976 - G S A

MESSAGE TO BE TRANSMITTED *(Use double spacing and all capital letters)*

~~TO:~~

FROM: JAMES T. BARKER, WEST COAST PRESIDING JUDGE, NLRB, DIVISION OF JUDGES, SAN FRANCISCO, CA

TO: ABRAHAM SIEGEL, REGIONAL DIRECTOR & GLENN A. SUNNESS, ESQUIRE

RE: CBS INC., CASE NO. 31-CA-5587. RESPONDENT'S MOTION FOR PROTECTIVE ORDER AND COUNSEL FOR THE GENERAL COUNSEL'S RESPONSE THERETO HAVE BEEN CONSIDERED AND SAID MOTION IS HEREBY REFERRED TO THE ADMINISTRATIVE LAW JUDGE DESIGNATED TO PRESIDE AT THE HEARING SCHEDULED TO COMMENCE ON TUESDAY, FEBRUARY 24, 1976.

| PAGE NO. | NO. OF PGS. | SECURITY CLASSIFICATION |
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STANDARD FORM 14
REVISED AUGUST 1967
GSA FPMR (41 CFR) 101-35.306

GPO : 1973 — 495-857

14-306

GC Exh 1(TT)

Re: CBS Inc.
Case No. 31-CA-5587

GENERAL COUNSEL'S EXHIBIT FILE NO. 1

INDEX
AND
DESCRIPTION OF FORMAL DOCUMENTS

Exhibit 1(a) Original charge, dated September 11, 1975.

Exhibit 1(b) Notice of Filing of Charge in 1(a), dated September 12, 1975, with one return receipt attached.

Exhibit 1(c) First amended charge, dated September 16, 1975.

Exhibit 1(d) Notice of Filing of Charge in 1(c), dated September 18, 1975, with one return receipt attached.

Exhibit 1(e) Complaint and Notice of Hearing, dated December 5, 1975, with Form NLRB-4668 attached.

Exhibit 1(f) Affidavit of Service of 1(e), dated December 5, 1975, with 12 return receipts attached.

Exhibit 1(g) Counsel for Respondent's request for an extension of time to file answer to complaint, dated December 22, 1975.

Exhibit 1(h) Order Extending Time for Filing Answer to Complaint, dated December 22, 1975.

Exhibit 1(i) Affidavit of Service of 1(h), dated December 22, 1975, with four return receipts attached.

Exhibit 1(j) Answer to Complaint, dated January 20, 1976, with Proof of Service attached.

Exhibit 1(k) Amended Answer to Complaint, dated February 17, 1976, with Proof of Service attached.

Exhibit 1(l) Respondent's Motion for Protective Order; Memorandum of Points and Authorities and Affidavit of James F. Sirmons in Support thereof, dated February 18, 1976.

Exhibit 1(m) Counsel for the General Counsel's teletype urging that Respondent's Motion for Protective Order be referred for ruling to ALJ assigned to hear case, dated February 18, 1976.

Exhibit 1(n) Teletype from West Coast Presiding Judge referring Respondent's Motion for Protective Order and Counsel for the General Counsel's Response thereto to the ALJ designated to preside at the hearing, dated February 20, 1976.

Exhibit 1(o) Index and Description of Formal Documents.

G. C. Exh. 1(o)

BEFORE THE NATIONAL LABOR RELATIONS BOARD

TWENTIETH REGION

| | |
|---|---|
| In the Matter of: | |
| CBS INC. | |
| Employer | |
| -and- | Case No. |
| INTERNATIONAL BROTHERHOOD OF ELECTRICAL WORKERS, AFL-CIO, AND LOCAL 4, LOCAL 45, LOCAL 202, LOCAL 1200, LOCAL 1212, LOCAL 1220, AND LOCAL 1228, INTERNATIONAL AFL-CIO | 31-CA-5587 |
| Charging Parties | |

Hearing Room 1, Federal Building,
11000 Wilshire Blvd.,
Los Angeles, Calfiornia.

Tuesday, February 24, 1976.

The above-entitled matter came on for hearing, pursuant to Notice, at 10:00 a.m.

BEFORE:

MARTIN S. BENNETT Administrative Law Judge

APPEARANCES:

GLENN A. SUNNESS, Esq. Office of the General Counsel, NLRB, 11000 Wilshire Blvd., Los Angeles, CA; appearing on behalf of the General Counsel.

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|---|---|
| CHARLES G. BAKALY, Esq.<br>-and-<br>ROBERT A. SIEGEL, Esq. | Law Firm of O'Melveny & Myers, 611 W. Sixth Street, Los Angeles, CA; appearing on behalf of the Employer. |
| STEPHEN M. KOPEEKIN, Esq. | Assistant General Attorney, CBS Inc., 51 W. 52nd Street, New York NY; appearing on behalf of the Employer. |
| RICHARD J. DAVIS, JR., Esq. | Law Firm of Brundage, Beeson & Pappy, 1625 West Olympic Blvd., Suite 805, Los Angeles, CA; appearing on behalf of Charging Parties Local 45 and the IBEW. |
| DAVID I. ASHE, Esq. | Law Firm of Ashe & Rifkin, 225 Broadway, New York NY; appearing on behalf of Local 1212, IBEW. |

# I N D E X

| WITNESS | DIRECT | CROSS | REDIRECT | RECROSS |
|---|---|---|---|---|
| Andrew J. Draghi | 13 | 59 | 79 | |
| James F. Sirmons | 82 | | | |

| EXHIBITS | FOR IDENTIFICATION | INEVIDENCE |
|---|---|---|
| **General Counsel** | | |
| GC 1(a)-(o) | 5 | 6 |
| GC 2 | 6 | 9 |
| GC 3 | 10 | 11 |
| **Respondent** | | |
| R 1 | 103 | - |

BEST COPY AVAILABLE

P R O C E E D I N G S

ADMINISTRATIVE LAW JUDGE BENNETT: On the record.

This is a formal hearing before the National Labor Relations Board, in the matter of CBS Inc., Case No. 31-CA-5587.

The Judge conducting this hearing is Martin S. Bennett.

I will now ask counsel to state their appearances for the record.

MR. SUNNESS: Appearing as Counsel for the General Counsel, is Glenn A. Sunness, Field Attorney, Region 31, National Labor Relations Board.

My address is: Federal Building, 11000 Wilshire Boulevard, 12th Floor, Los Angeles, California, 90024.

JUDGE BENNETT: For the Charging Parties?

MR. DAVIS: For the Charging Parties, Local 45 and the International Brotherhood of Electrical Workers: I am Richard J. Davis, Jr., Attorney at Law, of the firm of Brundage, Beeson & Pappy, 1625 West Olympic Boulevard, Suite 805, Los Angeles, California, 90015.

MR. ASHE: For the Charging Party, Local 1212, IBEW, David I. Ashe, Attorney at Law, of Ashe & Rifkin, 225 Broadway, New York, N.Y., 10007.

JUDGE BENNETT: For the Respondent?

MR. BAKALY: For the Respondent, CBS Inc., Charles G. Bakaly, of O'Melveny & Myers, Attorneys at Law, 611 West

Sixth Street, Los Angeles, California, 90017; and Robert A. Siegel, of the same firm, same address.

Also, Mr. Stephen M. Koppekin, Assistant General Attorney of CBS, Inc.

MR. KOPPEKIN: Stephen M. Koppekin, CBS Inc., 51 West 52nd Street, New York, N. Y., 10019, which is the main address of CBS.

JUDGE BENNETT: As counsel know, the official transcript is the only official record of this hearing; and I would instruct the official Reporter to take down everything that is stated here -- unless I specifically direct that we go off the record.

Will you now proceed, Mr. Sunness?

MR. SUNNESS: At this time, I would like to introduce the formal papers, being the General Counsel's exhibits 1-A through 1-O -- Exhibit 1-O being an Index and Description of the formal documents.

(The documents were marked for identification as General Counsel's Exhibits, 1-A through 1-O.)

MR. SUNNESS: These formal papers have been shown to counsel for the Charging Parties, and to counsel for the Respondent; and we will offer them at this time.

JUDGE BENNETT: Any objections?

MR. DAVIS: No objection.

MR. BAKALY: No objection.

JUDGE BENNETT: There being no objection, General Counsel's Exhibits 1-A through 1-O will be received.

(The documents earlier marked as General Counsel's Exhibits No. 1-A through 1-O, were received into evidence.)

JUDGE BENNETT: Do we have any matters of a preliminary nature that should be presented?

MR. SUNNESS: There are certain stipulations, Your Honor, that we would like to discuss.

May we go off the record at this time?

JUDGE BENNETT: Yes; off the record.

(Discussion off the record)

JUDGE BENNETT: On the record.

MR. SUNNESS: Your Honor, at this time I have marked, as General Counsel's Exhibit No. 2, a proposed stipulation that deals with Trade Secrets of CBS.

The written stipulation speaks for itself.

(The document was marked for identification as General Counsel's Exhibit No. 2.)

MR. SUNNESS: This has been shown to the parties, during an off the record discussion; and I would now offer the General Counsel's Exhibit Two, so that the parties may enter into the proposed stipulation which is General Counsel's Exhibit 2.

JUDGE BENNETT: I gather that everyone stipulates to it?

MR. DAVIS: Yes, Your Honor.

MR. ASHE: Yes, Your Honor.

MR. BAKALY: Your Honor, if I may be heard, let me just set the framework for this.

We have, as this exhibit 1-L, filed with the Chief Law Judge, which has been referred to Your Honor, a motion for a Protective Order.

The purpose of that motion is in part served by the proposed stipulation.

However, there is one piece of evidence which will be shown on the television receiver here -- that is a tape of about ten minutes in length, which was shown to the Bargaining Committee on several occasions. It is extremely confidential.

We would like to show that tape, in the due course of our presentation; and we would like to have a Protective Order with respect to the tape.

I will leave the tape as an exhibit; but we would like a protective order, to the effect that it shall not be disclosed, except to Board personnel; and---to the Court, in the course of this proceeding.

JUDGE BENNETT: And the Charging Parties?

MR. BAKALY: Yes, and the Charging Party, who, of course, has already seen it, and will again see it here.

And we would request that, when it is shown, the room

be cleared of anyone other than those parties.

With that Protective Order, and the Stipulation, we will not require an additional protective order; but we will state that, by the stipulation, we are not waiving our right to put in testimony about what was said; but it will not include what we consider to be confidential information.

JUDGE BENNETT: Of course, the thought occurs to me -- and I am not a technician -- so this thought occurs to me:

Am I qualified to evaluate the tape? And to make factual findings based on it?

MR. BAKALY: Evidence will be introduced to illustrate the kind of material that was presented to the Union in the course of the negotiations; and we have a stipulation as to its confidentiality.

I don't think Your Honor will be asked to make any findings with respect to the truth of the matter; except to the extent that this is the kind of information that we wanted to disclose, and ultimately did disclose, after the Union was no longer present.

And it is for that purpose that we are offering it.

JUDGE BENNETT: All right. So, with that statement, will you stipulate to Exhibit No. 2?

MR. BAKALY: With that statement, we will stipulate to No. 2, yes.

JUDGE BENNETT: Very well. I will reaffirm my ruling

on that, now: General Counsel's Exhibit No. 2 will be received.

(The document earlier marked for identification as General Counsel's Exhibit No. 2, was received into evidence.)

JUDGE BENNETT: And you want this to be a part of your case?

MR. BAKALY: Yes, and we will ask for a protective order, in the record -- when that comes up.

JUDGE BENNETT: I am not sure that the Board has ever done this.

I have been hearing these cases for over thirty years; and it is a matter of first impression, to me.

But I will consider it.

MR. BAKALY: It well may be, Your Honor, that the Board - -

I am not aware that the Board has ever used a protective order like this; but I see absolutely no impediment to it, under the Rules we have cited -- and particularly, the Rules of the United States District Courts, by which you are bound when they are not in conflict with the rules of the Board.

JUDGE BENNETT: The Board does authorize me to make the hearing non-public.

MR. BAKALY: That is correct, sir.

JUDGE BENNETT: So you are suggesting that I make it

non-public with respect to that limited area?

MR. BAKALY: That is correct.

And that is what makes this work interesting, Your Honor -- the fact that we have new and different things.

JUDGE BENNETT: Sometimes it is easier to deal with the older, simpler things.

MR. BAKALY: But not intellectually stimulating!

JUDGE BENNETT: What you are really suggesting is, that I was unfortunately chosen to hear this case!

MR. BAKALY: No, I think it was very fortunate.

MR. DAVIS: For the Charging Party, we think that would have been the case, even if a new issue were not raised.

JUDGE BENNETT: Thank you.

Now, does the General Counsel have some witnesses?

MR. SUNNESS: Yes, sir. The General Counsel also proposes certain additional stipulations.

I would now like to have marked,as General Counsel's Exhibit No. 3, this 88-page booklet entitled, "1972 Agreement between the International Brotherhood of Electrical Workers, AFL-CIO-CLC, and the Columbia Broadcasting System, Inc.

(The document described was marked for identification as General Counsel's Exhibit No. 3.)

JUDGE BENNETT: That is the one that is referred to in the Complaint?

MR. SUNNESS: Yes, Your Honor.

And I would like to offer GC-3, with the stipulation that this is the Collective Bargaining Agreement, as described in Paragraph Six of the Complaint.

MR. BAKALY: We so stipulate. We have admitted that, in the Answer.

JUDGE BENNETT: It is received.

(The document earlier marked for identification as the General Counsel's Exhibit 3 was received into evidence.)

MR. SUNNESS: General Counsel now proposes the following stipulations with regard to the National Association of Broadcast Engineers and Technicians -- which I will refer to, from here on, as "NABET".

The first stipulation regarding NABET is the following:

That NABET, at all times material herein, ahas been the collective bargaining representative of certain Technicians and Operating Engineers employed by NBC and ABC -- the National Broadcasting Corporation and the American Broadcasting Corporation.

I will offer that stipulation first; and then I have another stipulation.

JUDGE BENNETT: Is that agreeable?

MR. DAVIS: So stipulated.

MR. ASHE: Yes, Your Honor.

MR. BAKALY: We would stipulate that a competent

witness called by the General Counsel would so testify.

MR. DAVIS: I will agree with that form, also.

JUDGE BENNETT: All right. The stipulation is received.

MR. SUNNESS: My next stipulation as to NABET would be: That NABET, at all times material herein, has never represented any employees of CBS Inc., nor any employees of any broadcasting company owned by CBS Inc.

JUDGE BENNETT: By "broadcasting", I take it that you are including both radio and television broadcasting?

MR. SUNNESS: Yes, sir.

MR. BAKALY: Did the Union stipulate?

MR. DAVIS: Yes.

MR. ASHE: Yes.

MR. BAKALY: And we will so stipulate.

JUDGE BENNETT: Very well, that is also received.

MR. SUNNESS: General would now like to call, as its first witness, Mr. Andrew J. Draghi.

JUDGE BENNETT: Please raise your right hand, and be sworn in.

Whereupon,

ANDREW J. DRAGHI,

having been first duly sworn, was called as a witness by and on behalf of the General Counsel; and was examined, and testified as follows:

JUDGE BENNETT: First, please state your name and

address for the record.

THE WITNESS: My name is Andrew J. Draghi, spelled D-r-a-g-h-i.

My address is: 2006 Fourth Street, San Fernando, California, 91340.

DIRECT EXAMINATION

Q (by Mr. Sunness) Mr. Draghi, by whom are you presently employed?

A By Local Union 45, IBEW.

Q What is your position with the Union?

A My position is as Business Manager, Financial Secretary.

Q How long have you held that position?

A For almost nineteen years.

Q Have you been involved, in any way, with any collective bargaining negotiations between CBS, on the one hand, and your Union, on the other hand?

A Yes, I have.

Q Were you involved in negotiations that occurred in 1975 and 1976, with regard to a new contract to replace the General Counsel's Exhibit Three?

A Yes, I was.

Q Were you also involved in the negotiations for the 1972 contract, which was introduced here as General Counsel's Exhibit Three?

A Yes. And, in fact, I would like to add that I have been involved in negotiations with CBS, ever since 1958.

Q Could you describe the IBEW bargaining committee that was involved in the 1975-76 negotiations?

A The Negotiating Committee for the IBEW is composed primarily of a representative from the International Office, who in this case was Mr. Jack Kain, Director for Broadcasting and Recording; and by the Business Managers of the various Locals involved, as well as their delegates, from each respective Local.

Also, later, others who were invited to attend.

Q Would those "others" be representatives of other labor organizations, other than the IBEW International or Locals?

A Yes.

Q And who would those individuals be?

A Well, those individuals were: Frank Barnhart, the Business Representative of Local 33, IATSE of Hollywood; and Dick Nimmo, of Local One in New York, IATSE; and James Nolan Knowland, the International Representative from NABET, who is also Vice-President of their Tenth District; and Edward Lynch, the International President of NABET. That's N-o-l-a-n.

And I want to make one other point: Mr. Jim Windsor, who is not a business manager representing employees covered under the national agreement, but nonetheless, he is a business

manager who does represent employees at an owned and operated station of CBS in Philadelphia that attend these negotiations; and he is a Business Manager of the IBEW.

Q With regard to Mr. Lynch, Mr. Edward Lynch from NABET: What was his role, or status, in the IBEW Negotiating Committee?

A Mr. Lynch was a member of our Negotiating Committee, and he was there as an adviser and expert in the field of netotiations with networks similar to CBS.

Q Would the same be true of Mr. Knowland from NABET?

A Yes. -- Mr. Nolan, that is.

Q And of Mr. Frank Barnhart, from IATSE?

A Yes.

Q He would have had the same status as Mr. Knowland? -Nolan?

A Correct.

Q What about Mr. Nimmo? Is that true of him also?

A Correct.

Q Now, when did the first meeting take place, between the Negotiating Committee of IBEW, and CBS -- in 1975?

A On July 14th. I don't recall whether you asked me where it took place?

Q Was it possibly in New York? Or in New York State?

A Yes: it was at the Sheraton Eagle Bay Inn, in Ossining, New York State.

Q Prior to that first meeting, do you recall having any

telephone conversations with Mr. Symons -- Sirmons, from CBS, regarding the subject of NABET?

A. Yes, I do.

Q. And when did you have those conversations?

A. Approximately two weeks to a month prior to the commencement of the negotiations in July.

Q. And you recognized Mr. Sirmons' voice?

A. Yes; he identified himself. And I also recognized his voice.

Q. Could you relate the conversation, or conversations, for us?

A. Yes.

Mr. Sirmons inquired about a rumor that he had heard, that involved the IATSE and NABET representatives attending our negotiations. And he wanted to know why this was so.

I asked him why he was calling me.

He said, quote: "Well, you are supposed to be the chairman" -- or words to that effect.

I told him simply that they had been invited. He wanted to know if that could be changed; and I told him that I doubted it -- that that was the way it was, and that was the way it would be.

Q. Was there anything else said?

A. Then Mr. Sirmons indicated that he was going to call Chuck Kain, the International Director of Broadcast and Tele-

vision Recording.

JUDGE BENNETT: What is the spelling of that name?

THE WITNESS: It is spelled K-a-i-n, Your Honor.

Q (by Mr. Sunness) Was there anything else said, in that phone conversation?

A Yes. I believe Mr. Simmons stated that he was quite disturbed by the presence of individuals from both IATSE and NABET; and he did not feel that they would contribute anything to the bargaining process, and, in fact, would impede negotiations.

Q Was anything else said in the course of that conversation?

A Not that I recall at this moment.

Q Now, with regard to that first negotiation, on July 14, 1975:

Were certain ground rules laid down, for the contract -- strike that.

Well, first of all, during that first meeting, were there any representatives on the IBEW Bargaining Committee, from non-IBEW unions?

A No, there were not.

Q During this first meeting, on July 14th, were there any ground rules laid down between the IBEW and CBS, with regard to these contract negotiations?

A Well, yes -- if you can call it ground rules.

Mr. Sirmons requested that we set up "ground rules".

The only thing that I recall that he set up was that neither party to the negotiations, meaning neither IBEW nor CBS, would get involved with the press, as to the conduct or course of the negotiations.

He also said that he didn't want anyone to get "locked in" on any one particular position; and this could have involved the ground rules, or whatever.

That is essentially what Mr. Sirmons was concerned about. And in fact, I believe he said that he was expecially concerned about L.A., when it came to press releases.

Now,"L.A."is, of course, the short form for Los Angeles.

Q Was anything said, in the course of this meeting -- where ground rules were discussed -- was anything said with regard to confidential information?

A No.

Q Was anything said about NABET?

A No.

Q Did the Unions and CBS exchange their initial, written contract proposals -- in the course of this first meeting?

A Yes; they were exchanged. I know that we gave them ours, on the 14th; and I believe that CBS gave theirs on the 14th, also -- but it may have been on the 15th, I'm not sure.

Q Did the parties review the initial contract proposals?

A. Yes, we gave explanations as to the nature of our proposals.

Q. Was there another meeting in Ossining, New York?

A. Yes, there was -- it was on the next day, the 15th of July.

To the best of my recollection, there were only the two meetings -- on July 14th and 15th.

Q. Did basically the same things occur, in the July 15th meeting, that occurred in the meeting on the 14th?

A. That is correct, yes.

Questions were asked about the proposals, and the basis for them.

Q. Was there any representative from either IATSE or NABET -- any representative from IATSE and NABET -- at the meeting on July 15th?

A. No, they were not there.

Q. Then did the negotiations move on to San Diego?

In California?

A. Yes. The negotiations then commenced in San Diego, on September 3rd, 1975, at the Kona Inn.

Well, we stayed at the Kona Inn; and I believe the Company's representatives stayed at the Kona-Kai.

But the actual negotiating was done at the Kona Inn.

Q. The Union, and the CBS representatives, carried on the contract negotiations for how long, at the Kona Inn?

A From September 3rd to September 30th.

Q Were all of the meetings held at the same place?

A Yes.

Q With regard to the September 3rd negotiation meeting:

Were any representatives from either IATSE or - -

Well, let me ask you:

Were there any representatives of IATSE at that meeting?

A No, there were not.

Not on September 3rd.

Q What about any representatives f ABET?

A No, there were not.

Q Prior to the September 3rd meeting, do you recall having any conversation with Mr. Sirmons, regarding NABET?

A Yes -- I believe I received a call, on the morning of September 3rd, from Mr. Sirmons; and he discussed his concern over - -

Q What did he say?

A Over what he had heard, that representatives of NABET would attend the meeting.

I believe he also raised a similar concern, regarding the possibility of IATSE representatives attending.

And he told me that it would seriously impede the negotiations, would lend nothing to it, and would be an impediment to the bargaining.

Q What, if anything, did you say to that?

A As I recall it, I advised Mr. Sirmons that whoever we invited to attend, would attend. And that was the way it was going to be.

Q Did you say anything else?

A I would just like a moment to think about that.

Well, I don't recall anything else, at this moment.

Q Did you say anything, during that telephone conversation, regarding what role the people from IATSE or NABET would - - have - -

A Yes - -

MR. BAKALY: Objection: Suggestive, and leading.

JUDGE BENNETT: Overruled.

You may answer it.

THE WITNESS: Thank you, Your Honor.

I advised Mr. Sirmons, in response to a question that he raised - - He wanted to know what their role would be, and I told him that their role would be that of Negotiating Committee members.

Q Was anything else said, in the course of this phone conversation, that you recall?

A Well, it was some time ago; so I have to just think about it for a minute.

Q That is all right -- take a minute to think.

A No, I don't recall anything else, at this time.

Q Was the next negotiating meeting held on September 4th?

A Yes, it was.

Q Who was at that meeting, on behalf of the Union? -- strike that. Let me ask:

Besides the regular IBEW Business Representative members, were there any non-IBEW representatives, at the meeting on September 4th?

A Yes. Mr. Barnhart of IATSE Local 33, of Hollywood, and also Mr.Nimmo, of New York IATSE, were introduced to Mr. Sirmons and the CBS Negotiating Committee, as negotiating -- Well, I think I said that they were there as Observers and as members of the Negotiating Committee.

Q Was there any other conversation with regard to the status of Mr. Barnhart and Mr. Nimmo? As to their status?

A Yes, there was; but I would like to ask a clarification of the question, Your Honor.

I don't know if the question was intended to ask did I make any further clarification, or did the Company?

JUDGE SAHM: Either way.

THE WITNESS: Either way?

Yes, the Company very strongly protested the presence of Mr. Barnhart.

Q Who was speaking for the Company?

A Mr. Sirmons; he was the chief spokesman for the company.

Q What did he say?

A Mr. Sirmons said, in effect, that these people were outsiders, as I recall it: that they did not know the terms of the Technicians' Agreement; that they would serve no useful purpose; and a couple of other remarks, like he would have to review everything that was discussed with us.

And I think he said he was reserving any legal options he had, regarding their presence -- that is, regarding the presence of Mr. Barnhart and Mr. Nimmo.

And there was one other comment that he made - - I am trying to think about it. Oh, yes:

That, because of their presence, he would not discuss any jurisdictional matters -- not while they were there.

Q Was there any other discussion regarding the status of these two men, Mr. Barnhart and Mr. Nimmo?

A Yes, he wanted to know - -

Q Who is "he"?

A Mr. Sirmons wanted to know - -

THE WITNESS: May I ask Your Honor: I will try to say Mr. Sirmons, when I refer to him.

But in any case, Mr. Sirmons was the chief spokesman; and when I say "he", in such a context, I mean Mr. Sirmons, unless I specifically state someone else.

Do I have to say "Mr. Sirmons", on each and every occasion? In this discussion, "he" is only Mr. Sirmons.

JUDGE BENNETT: I think that is clear, now it has been thus explained.

A. Mr. Sirmons questioned their position on the committee.

He wanted to know who they represented, whether themselves, or their organization, and so forth.

When I advised him that they were members of our committee, and, as such, a part of the committee -- and, in that regard, were representing the committee -- he questioned whether they would abide by any jurisdictional avenues our committee -- meaning the Union Committee -- might agree to.

I believe he said this might be in conflict with certain I.A. postures, as to what they would be agreeable on.

I very clearly made it known to Mr. Sirmons that they were there as members of the Committee; and that the Committee would make any and all decisions regarding whatever we agreed to.

Q. Just so that the record is clear, I assume that by your reference to "I.A.", you mean the IATSE?

That is, the International Association of Theatrical, and -- -

A. Yes -- the International Alliance of Theatrical and Stage Employees is the title. It is generally known as IATSE, and we refer to it as I.A., for short.

Q. Now, did Mr. Barnhart and Mr. Nimmo remain throughout the entire meeting on September 4th?

A. Yes, I believe they did.

Q. And did the Union and CBS continue to review the con-

tract proposals, throughout the time of this meeting?

A Yes, we did.

Q Was there a contract negotiation meeting between CBS and the Unions, on the following day, September 5th?

A Let me think.

Yes, we had a meeting on the 5th of September.

Q And were the same two IATSE representatives present, on behalf of the Union Committee?

A Yes, they were.

JUDGE BENNETT: You said ... ... before that Mr. Sirmons had stated that he did not want to get into any jurisdictional disputes?

THE WITNESS: I don't thinkhe said that; that he did not want to get into any jurisdictional disputes.

He said that he would not discuss jurisdiction in the presence of any I.A. members of our Committee.

JUDGE BENNETT: Oh, all right. Thank you.

Q (By Mr. Sunness) Did the parties - the Union and CBS continue to review their respectivce Contract proposals throughout the meeting of September 5?

A Yes, they did.

I might say, as I recall, on the 5th Mr. Sirmons and Mr. White left the meeting during a break - I forget the time, it might have been around 11 or 12 - and we did discuss proposals, in fact the Company proceeded to discuss jurisdictional

proposals that they had made, and this contrary to the statement of Mr. Sirmons the day before.

Q When was the next Contract negotiation meeting?

A On the 8 of September.

Q And besides the regular IBEW representatives, were there any other representatives for the Union at the September 8 meeting?

A At the September 8 meeting two people were introduced as new members of the committee. One was Shirley Wolfe.

Q Who is she?

A She is a member of Local Union 1212, IBEW, New York, and she had the title, as I recall, of Assistant to the Business Manager and I believe she worked for a competitor of C.B.S.

Q What was said with regard to her status?

A The Company protested Ms. Wolfe's presence.

Q Thisis Mr. Sirmons?

A Yes, Mr. Sirmons protested Ms. Wolfe's presence but following his protest he said at least Ms. Wolfe is a member of Local 1212. She is an Assistant to the Business Manager and while he protested it he did not raise any objections to her presence during the course of bargaining other then what I have just stated.

He didn't think that her presence there would lend anything to the bargaining but at least in the end he said she

was a member of Local 1212 and an Assistant to the Business Manager.

Now as regards Mr. Nolan, Mr. Sirmons ---

Q Who is Mr. Nolan?

A I am sorry. Mr. NOlan is an International Representative of NABET. He also happens to hold the position of vice-president of the 10th district.

Q He is the Mr. NOlan that you referred to earlier?

A Yes. I thought I had covered that earlier.

Q Go on.

A Mr. Sirmons position was that Mr. Nolan dealt with his chief competitors and I believe he named N.B.C and A.B.C., and this caused him grave concern because of Mr. Nolan's dealings with his chief competitors, and amongst a number of remarks I believ e he said he felt he did not have to deal with -- he did not have to continue negotiations in the presence of Mr. NOlan as he had a legal case, or felt he had a legal case, that would permit him to take this position.

Q Did he say why?

A He asked - he raised the issue that there were certain matters that he could not disclose freely with Mr. Nolan present that he would discuss in --- without Mr. Nolan present --and I am trying to remember if he raised the issue of confidentiality at that time.

I believe he said that Mr. Nolan would impede the free

flow of information and bargaining because of his presence and because of the fact that he dealt with CBS' chief competitors.

Q What if any --

A And this was based on restrictive information that he felt should not be made known to anyone from BABET.

Q Is this something he said at the meeting?

A Yes.

Q What, if anything, did you say in response to that statement of Mr. Sirmons?

A I believe I advised Mr. Sirmons that he was, as a member of our negotiating committee, that Mr. Nolan was entitled to stay, would stay, and that he was a professional and Mr. Nolan knewhow to handle these matters.

Q Did you say anything else?

A I believe I told Mr. Sirmons that Mr. Nolan was there again for his expertise and as an advisor.

Q What happened then at the September 8 meeting with regard to Contract negotiations after this discussion regarding Mr. Nolan?

A Well, this meeting on the 8th, if I recall correctly, was a rather short meeting. In fact, I think it lasted about a half an hour. If I recall the meeting dates and times correctly we convened at 2 p.m. and adjourned -- not adjourned, there was a caucus the Company requested around

2:20 p.m. because they had totake -- they wanted to discuss Mr. Nolan's presence and the impact it had on the negotiations.

Later, and after a long caucus, by then we received calls that they needed more time. I believe around 5 p.m. that evening.

Q With regard to the negotiation meeting, did anything else take place other then the discussion of Mr. Nolan's status and Ms. Wolfes status?

A Yes, I believe they said they could not negotiate with Mr. Nolan present as a representative of NABET.

That is about all I can recall at this time.

Q And you say you did have a conversation with Mr. Sirmons later that day?

A Yes, about 5 p.m. I received a call from Mr. Sirmons - again Mr. Sirmons identified himself and I recognized his voice. We were not that far apart, the facilities of the Kona-Kai and Kona Inn, but on the telephone it doesn't really matter whether it is 3,000 miles or next door. I recognized his voice and he requested a side bar meeting and in fact, we did hold a meeting at the Shelter Island Inn which was next door.

Q Was this the same day?

A Yes, shortly after 5 p.m.. After the call, I left to meet Mr. Sirmons at the Shelter Island Inn.

Q Was anyone else involved in this meeting other then Mr.

Sirmons and you?

A No.

Q What happened at this meeting?

A Mr. Sirmons expressed his concern about Mr. Nolan's presence and as I recall he said there were a number of confidential areas the Company felt they had to discuss, that they would be inhibited in discussing if Mr. Nolan was present.

JUDGE BENNETT: This had to do with the Company's competitors?

THE WITNESS: Yes, and I believe Mr. Sirmons, after I discussed this with him, I believe he also said it would delay, protract negotiations if Mr. Nolan continued to be present.

I told him at the time I did not see any way we could do without Mr. Nolan. He was a member of the committee.

He said then he needed more time to discuss this with his people and as the hour was late, it was close to 6 p.m., that maybe we should put this off to a meeting tomorrow or an on call basis or something like that.

I went back at around 6p.m. as I recall and advised the IBEW committee that was standing by that the Company would not return and to all intents and purposes that meeting ended at about 6

Q (By Mr. Sunness) When was the next meeting held?

A On September 9.

Q And was Mr. Nolan at that meeting?

A Yes, he was.

Q And did Mr. Nolan remain throughout that entire meeting on September 9?

A To the best of my knowledge he did.

Q And how did that meeting on the 9th start?

A Let me think about that.

Well, the meeting on the 9th was preceeded by a couple of phone calls. As I remember, we did not meet with the Company until roughly 2 p.m. or 2:30 in the afternoon.

I had received a couple of phone calls from Mr. Sirmons in which he said, among other things, that they needed more time to discuss whatever it was that they were discussing. We kicked around possibilities as to a course on the phone and at that time there were discussions --- I believe that Mr. Sirmons suggest we find a way to negotiate without NABET being present, that was one.

I had suggested that one of the possibilities when we convened was for the Company to discuss non-confidential areas of proposals.

Q This was in the course of the phone conversations?

A The phone conversation in the morning.

That was about what I recall. We were exploring possible methods of getting these negotiations moving.

Q You made referance to discussion of non-confidential matters.

What, if anything, did Mr. Sirmons say in response to your statement?

A That may have been in the phone conversation but I know that he repeated it later. He said in the non-confidential area the Company was not going to allow the Union to pick and choose the areas that we would be discussing in our negotiations.

Q When did Mr. Sirmons make this statement on the 9th, during the telephone conversations or in the meeting?

A I believe he did it on both occassions: telephone conversations and later during the meeting. His phraseology during the meeting was slightly different but the intent of it was the same.

Q Why don't you give us as near as you can recall what he said during the meeting regarding the subject of discussing non-confidential contract matters?

A Let me say this: I may have the thing out of sequence, what he said in the morning he may have said in the afternoon or vice-versa, but he did say in one case, and I believe it was in the afternoon when we raised the question of discussing -- now there was a defferance in the afternoon. I suggested that we discuss non-confidential CBS proposals and I believe -- you see in the morning I said we would discuss non-confiden-

tial proposals, in the afternoon I believe I identified it as non-confidential CBS proposals.

Q All right.

A Which was essentially the same thing.

Q Let us take the telephone conversation in which you suggested non-confidential proposals.

What if anything do you recall Mr. Sirmons saying in response to that?

A That he would not allow the Union to pick and choose or put them in a position of picking and choosing the subjects for negotiations.

And in the afternoon ---

Q In the afternoon what did he say when you brought up discussion of non-confidential C.B.S. proposals, what did Mr. Sirmons say on that occassion?

A I think his terminology was "We are not going to allow you to be selective or to put us in a position of being selective as far as the proposals that we negotiate."

Q Now during the September 9 meeting was there any discussion at all or any specific contaact proposals?

A On the 9th?

Q September 9.

A I believe on the 9th I suggested that there was some simple proposal of CBS that was certainly not confidential that we can discuss. Now what it was I don't recall at this

time but that is what I said in the main sense of it.

Q What did Mr. Sirmons say in response to that?

A That he wasn't going to do it. I think it was tied in again that he wasn't going to allow us to be selective or we weren't going to get into a selective posture regarding the negotiations and even if it was a simple thing he wasn't going to discuss anything with NABET present.

Q Was anything discussed --

A I mean anything as far as proposals.

Q Were any proposals discussed while Mr. Nolan from NABET was present during the September 9 meeting?

A Only to the extent, as I recall it, that I mentioned: a simple C.B.S. proposal, what it was at this time I don't recall but I did raise I know one proposal and maybe a couple that we could discuss.

Q Without going into the specific details, what was discussed mainly during the September 9 meeting?

MR. BAKALY: Do you mean in proposals? I object to the question as in an unascertainable form.

JUDGE BENNETT: Tell us what he said and what you said.

THE WITNESS: If YourHonor will give me a moment to think about it, it was quite a set up that day and I am trying to recall.

Now this was on the 9th, we are still on the 9th, right?

Q (By Mr. Sunness) Still on the 9th.

A At about 1:20 there was another caller received, this was prior to the commencement of negotiations, I received a call other then the morning call I referred to/

Mr. Sirmons indicated to me in that call that the Company intended to file unfair labor practice charges against IBEW on the basis of their refusal to bargain.

I suggested to him during the conversation that the Company should discuss the matter with our International attorney Larry Cohen and I believe our local attorny Al Brundage who heads the f rm of attorneys which represent us because it was my opinion and that of the committee that we had a much better case as far as filing an unfair labor practice charge then they did---

MR. BAKALY: I move to strike the opinion of the witness, Your HOnor, as unresponsive.

JUDGE BENNETT: Did you say this?

THE WITNESS: I said this.

JUDGE BENNETT: All right. You may proceed.

THE WITNESS: I said this on the basis that we had discussed this with our attorneys and in our opinion we had an excellent case to charge the Company with refusal to bargain by their position in not negotiating with us because the members who they challenged as being on our committee that they did not feel belonged there.

Now,Mr. Sirmons, following this conversation --- oh,

there is one more point I made.

At that time in this phone call, I suggested that they discuss --- we discuss when we get back non-confidential areas of the proposals and I believe that Mr. Sirmons said that they would review it. They would review their position following this discussion.

He also mentioned another thing: I had advised Mr. Sirmons that the committee, the Union committee, had a negotiating meeting at about 2 p.m. and Mr. Sirmons asked me to advise the Union committee when we met of the Company's intention to file an unfair labor practice charge.

That is pretty much about what I recall of that 1:20 p.m. call or approximetly 1:20.

Q (By Mr. Sunness) You say that when you suggested discussing non-confidential matters that Mr. Sirmons said he would consider this?

A He said that they would review their position as I recall, review the statements that were made.

Q Also, you indicated that Mr. Sirmons replied to such a proposal from you that he was not going to pick and choose, is that right?

A That is correct.

Q When did he say that he was not going to pick and choose?

A I forget whether it was at the 1:20 or earlier call. I think it was at the earlier call, the morning call, not the

1:20 call.

Q Did he say that he was not going to pick and choose during the actual meeting that was held?

A Yes.

Q And at what point in the meeting did he say that?

A I forget the time sequence but —

Q Was it at the beginning of the meeting, the middle of the meeting or the end of the meeting?

A I would think it was near the middle of the meeting but that was not pick and choose at the middle of the meeting. He said, as I recall I said earlier, he wasn't going to permit us to be selective, in the middle of the meeting. The intent was the same but the wordage was different.

Q When was the next meeting held between the IBEW and C.B.S.?

A We did not hold a meeting on the 10th, we held one on the 11th, September 11th.

Q Was anybody from NABET at that meeting?

A Yes.

Q Who?

A Mr. Nolan.

Q And was he present during the entire meeting on the 11th?

A To the best of my knowledge he was.

Q Was there any discussion in regard to Mr. Nolan in the September 11th meeting?

A Yes, it tied in with Mr. Nolan, but as I recall on September 11 we advised the Company that we were thinking of filing an unfair labor practice charge against C.B.S., and when I say we advised the Company, I advised Mr. Sirmons.

For better or worse, I think of Mr. Sirmons as the Company because I speak to him as its chief spokesman.

JUDGE BENNETT: Do we have t get into this whether they are thinking of filing a charge or not?

MR. SUNNESS: No, I don't really want to get into any of this prior to actual charges being filed in view of the objection.

MR. BAKALY: It is in evidence. The charge was filed on the 11th of September.

MR. SUNNESS: I am not trying to introduce any evidence as to the charge. I want to limit testimony on the actual filing of the charges by C.B.S. and by the Union.

Q (By Mr. Sunness) With regard to the September 11 meeting, while Mr. Nolan was present at the meeting, were there any discussions regarding the Union's Contract proposals or the Company's Contract proposals?

A As I recall the comment to the Company --

THE WITNESS: Your Honor, I am going to have to ask your indulgence because this ties somewhat in with the earlier remark I made regarding our filing unfair labor practice charges and because it ties in I cannot separate it easily.

JUDGE BENNETT: Try to do it as briefly as possible.

THE WITNESS: I will. What we said to the Company, because of their refusal to bargain with the committee on all issues before us and because of NABETS presence; because of the Company's continued refusal to bargain on the issues which we should be bargaining on, because of NABETS presence we gave them approximetly one hour, I think it wasn't till 11 a.m. or somewhere thereabouts to give us a response whether they would bargain in good faith on all of the issues that were bargainable.

Following that, I remember advising the Company that we were not going to permit the Company to coerce or induce this committee as to the selection of what people were going to represent us on that committee.

That is what I recall of what occured at that meeting on the 11th.

Q All right. So, there was no bargaining going on at that September 11 meeting?

A Not that I recall.

MR. BAKALY: I am going to strike that last answer as not responsive to the question.

JUDGE BENNETT: All right. The motion is granted.

Lets take a five minute recess.

(A short recess was taken)

JUDGE BENNETT: On the record.

Q (By Mr. Sunness) Were there any negotiation meetings after the September 11 meeting?

A There were on September 16th.

Q And was there any representative of NABET at the September 16th meeting?

A Yes, the e was, the same Mr. Nolan, to t best of my recollection.

Q What happened on the September 16 meeting?

A On September 16 because of the Company's persistant referances to confidentiality, I offered on behalf of the Committee, and after discussion with the committee, meaning the Union Committee; I offered a pledge of confidentiality to the Company that would be binding on both parties. Meaning on C.B.S. and IBEW and this would bind our representative from NABET or anybody else on the Committee, whether they were IBEW or otherwise to this pledge; and in turn the Company would be bound by a similar pledge.

Q What, if anything, did Mr. Sirmons say in response to that?

A Mr. Sirmons was very skeptical. In his own way he ridiculed --

Q Tell us, what did he say?

A He said he doubted the seriousness of the Union's proposal and he also questioned how could the Union give him assurances as to this confidentiality being kept by the Union. Would

either the Union or NABET post a bond? How could we penalize Mr. Nolan if he breached the confidentiality aspects?

We assured Mr. Sirmons that we were very serious about the proposal; that we were interested in getting the negotiations going; and this pledge of confidentiality should work because we have been involved in a somewhat similar situation on other occassions, meaning during the 1972 negotiations and during quarterly consultations. While we didn't use the term "confidentiality" as I recall the essence was the same.

Q But wait, why don't we stick to what was said at this meeting?

A I am sorry. This is me trying to recall and saying it as I recall it.

Q Okay.

A Can I respond to any other question on that or should I continue?

JUDGE BENNETT: Let me ask you this: When you use the term "confidentiality" as it was used at the meetings, I gather that meant keeping this matter confidential from other networks.

THE WITNESS: It meant not just the networks, Your Honor, it meant keeping it from anyone who is not entitled to know the information.

Q (By Mr. Sunness) You referred to quarterly meetings.

Can you briefly describe what these quarterly meetings were?

A Well, the quarterly meetings is a meeting that we hold once every three months and we revolve it to various cities. The purpose is that we can meet and dispense with any problems or make ourselves aware of any problems that might confront during the course of the agreement.

Now, if I recall correctly, this came into being in 1972 and its main purpose was not meetings for the purposes of discussing confidential subjects but to get rid of those grievances that seem to pile up during the three year term of the agreement and plagued us when we came to the termination of an agreement or a modification agreement and intruded and obstructed our negotiating the real issues.

Instead of having a bunch of grievances we wanted to get rid of these by meeting with some regularity and getting rid of these problems so they would not confront us at negotiations.

In addition to this the Company could make us aware of any pertinent matters that would affect either of us or both.

Q Is there any specific referance to quarterly meetings in the 1972 contract?

A Yes, it is called "quarterly consultations", I believe.

Q Now, getting back to the September 16 negotiating meeting with the C.B.S. representatives: You were relating a

discussion pertaining to the quarterly meetings.

Could you tell us what was said in that regard?

A The question that came up in this referance to the quarterly meetings --- again, this was on the 16th --- was that we had excercised discretion on subjects which were sensitive. It was not necessarily referred to as confidential matters. The term "confidential" cropped up sometimes but we realized there were sensitive subjects, whether you call them trade secrets or by whatever other name, that the Company or the Union might raise that we didn't want kicked around.

Mr. Sirmons said, in effect, that he recognized that the Union had never violated this confidentiality and the Union pointed out that we were not restricted or had not agreed to any pledge of confidentiality as such because the Union was going to determine whether in fact what the Company raised was of a so-called confidential matter or not, and in the end the Union would use its discretion. The Committee members would use their discretion, their professionalism, in being discreet as to the subject matter, but it was not because there was any formal pledge, written pledge, or other pledge but because we as professionals recognized it in the free course of conversation to solve problems that we had to be discreet otherwise the free flow of information would not continue.

flow of information would not continue.

Q This is all being said on

This is all being said on September 16?

A That is correct.

That is correct.

Q What did Mr. Sirmons say to that?

A Mr. Sirmons---

MR. BAKALY: Just a moment. I would like that pursued. It was my understanding that it was all said in connection with the quarterly meetings, not the September 16th meetings.

Counsel has by leading questions changed the context.

JUDGE BENNETT: Did the prior answer refer to the September 16 meeting or both?

THE WITNESS: It was both, it came up as a result of a discussion of confidentiality and an example

JUDGE BENNETT: On September 16?

THE WITNESS: On September 16.

JUDGE BENNETT: Let us have another question.

Q (By Mr. Sunness) Was anything else said with regard to the subject of confidentiality?

A M . Sirmons stated that the Union had never violated its --- to use the term --- its discretion, so far as the so-called confidential issues and had acted as professionals.

Q Was anything else said during the September 16 meeting that you recall?

A I don't recall at this time but there was a case raised that one of the quarterlys --- this is a referance to the quarterlys ---

Q Please limit your testimony as to what was said on September 16?

A A Mr. Gary Blum was substituting at one of the quarterlys, I believe in November 1974, for Mr. Rugen, the business manager of Chicago.

Q Was this brought up on September 16?

A I believe it was.

Q Okay.

A The Company raised some reservations about Mr. Blum having attended that meeting in November and it was discussed at that meeting and it was pointed out by us that Mr. Blum worked for a competitor of C.B.S ; that he was an IBEW member, that Mr. Blum had attended a quarterly at some other occassion and Mr. Blum would respect the confidentiality of any so-called restricted bit of information.

Mr. Blum was permitted to sit in at the November meeting and it was ascertained that confidentiality had not been breached by Mr. Blum or the Committee even though he worked for a competito

Q This was all said on September 16?

A Yes, to the best of my knowledge.

Q Any other discussion regarding the subject of confidentiality on September 16?

A No, I don't recall anything at this moment.

Q How did what understanding, if any, that was reached on September 16 with regard to confidentiality come about?

A Mr. Sirmons could not buy the concept or would not make any agreement or pledge of confidentiality. I am trying to

keep the answer brief.

JUDGE BENNETT: You have answered the question.

Q (By Mr. Sunness) Did you suggest anything else to Mr. Sirmons with regard to getting contract negotiations going on Sept 16?

A Yes, I believe I suggested that we discuss any other areas of proposals that were possible to discuss.

Q And what, if anything, did Mr. Sirmons say th that?

A It would not be possible in the presence of a representative from NABET.

Q Mr. Nolan was present throughout the entire meeting of September 16?

A Yes.

Q When was the next negotiation?

A September 19.

Q Was anybody from NABET at the September 19 meeting?

A Yes, Mr. Edward Lynch, the International President of NABET.

Q Was there any discussion with regard to Mr. Lynch's presence at the meeting, during the September 19 meeting?

A Yes, Mr. Sirmons raised the same objections as he has raised with Mr. Nolan; in fact, he prefaced his remarks by stating, "We have already covered all our objections with Mr. Nolan, and it would be repetitive to repeat the same as to Mr. Lynch's presence." I think he said, "At any other time we

would have welcomed Mr. Lynch, but this is not the time."

Q Was Mr. Lynch present during the entire meeting on September 19?

A Yes.

Q Were there any discussions of contract proposals between the Union and CBS during the September 19 meeting?

A No, just suggestions that we commence negotiations and get on with it. I don't recall any exchange on the 19th, any exchange on the proposals, any negotiations on the proposals.

Q When was the next meeting held?

A I believe it was September 22nd.

Q Was anybody from NABET at the September 22 meeting?

A Yes, but for a period of time Mr. Lynch was absent in the morning and then appeared at about 11 a.m.

Q During the period of time that Mr. Lynch was absent on the September 22 meeting, was there a discussion with regard to contract proposals between the Union and CBS?

A Yes, there was.

Q And what happened when Mr. Lynch came back into the room on September 22nd?

A The discussions on the proposals ceased because of Mr. Lynch's presence.

Q Did Mr. Sirmons say anything when Mr. Lynch entered the room while you were meeting?

A Yes, he remarked -- Mr. Lynch appeared momentarily; as I

recall he had to make a phone call, and Mr. Sirmons said he noticed the presence of Mr. Lynch, and he would keep up the discussions on the proposals until Mr. Lynch reappeared.

Q Then when Mr. Lynch did reappear did Mr. Sirmons say anything?

A Yes; that he could not continue negotiations with Mr. Lynch a representative of NABET present.

Q When was the next meeting held?

A The next meeting was held on the 24th.

Q Was there anybody from NABET at that meeting?

A Yes, there was.

Q Who?

A Mr. Lynch.

Q And how long was he at the meeting?

A For the entire meeting, to the best of my recollection.

Q Was there any discussion of Union or CBS contract proposals during the September 24 meeting?

A I don't recall if it was on the 24th or the 22nd, but the Company — Mr. Sirmons — suggested that we try to find a means of getting into negotiations without NABET being present, and we explored a possibility of subcommittees, where these subcommittees would be utilized for the purpose of exchanging information only, they would not be on the record, and as I recall it, he stated that what we did as far as passing on this information to Mr. Lynch outside of the committ meetings was

up to us.

That is pretty much as I recall. Now, I wish I could recall whether the meeting was on the 24th or the 22nd; it was either of those two days that this exchange occurred.

Q Did you make any reply to Mr. Sirmons' suggestion?

A Yes, I replied that the committee could not act in this matter, that everything that the company had to state had to come across the table. In fact, as I recall, I said that anything that comes across the table must be considered in our view as non-confidential, that we were not going to have restrictions placed upon us, that we would use the same professional discretion as we had exercised in the past as to the divulging of whatever material we felt was in the Union's best interest, or the members we represent, their best interest.

I am trying to think if there was anything else.

Yes. I asked the Company how they could possible consider this so-called subcommittees, which the Union considered a subterfuge to get around NABET's presence, as not constituting bargaining, when we were exchanging information that was relative to the negotiations and, as Mr. Sirmons said, this information would give us a preliminary basis for consideration as to the Company's position and curs when we resumed bargaining.

I asked the Company, "How can you possibly not consider

that bargaining?"

That is about what I recall of the conversation.

Q After September 24, when was the next meeting?

A I believe, the 29th.

Q And was anybody from NABET present at the September 29 meeting?

A Yes, I believe Mr. Lynch was present.

Q Was he present at the entire meeting on the 29th?

A To the best of my knowledge.

Q Was there any discussion of union or employer contract proposals during the September 29 meeting?

A As I recall it, we asked the Company again if they were prepared to bargain; we were there for the purpose of bargaining on any and all issues. And this received a negative answer from Mr. Sirmons.

There was more, but I don't know if you want me to relate the conversation as it transpired or wait for a question.

Q How did the September 29 meeting end?

A As I recall, we tried to figure an interim solution. There was discussion on the part of both parties -- I know for the Union; I will speak for the Union -- and might I say that I was speaking as chairman for this committee. I don't think this has ever been brought up, but my position was chairman.

Q Right.

A And I stated that the Company, in view of their position

of not being willing to discuss contract proposals in the presence of NABET, that this was not going anywhere, and perhaps we should start, as it wasnearing the end of time alloted for negotiations -- I think we had set the 30th as a deadline-- that we should now start to consider a means of an interim extension and a time when we would get together again.

At that time we made a proposal to the Company that a six month extension be considered and that retroactivity back to October 1st on wages, penalties, other monetary items, be a consideration, and that the six months would prevail as far as an extension unless the matter was resolved by the National Labor Relations Board prior to that time, at which time we would commence negotiations.

That was the general thrust of the proposal.

The Company questioned this proposal, asked questions, and took it under consideration as I remember on the 29th and said they would get back to us the next day, on the 30th.

Q Was there a meeting on September 30?

A There was.

Q And was there anybody from NABET at the September 30 meeting?

A Yes, Mr. Lynch.

Q Was he present for the whole meeting?

A To the best of my knowledge he was.

Q And what answer, if any, did the Company give you?

A The Company gave us a counterproposal somewhat along the same lines as we had proposed, except there was a different approach to the question of the cancellability. I think it was a fixed six-month period, non-cancellable.

I am trying to recall the other differences.

What we said was, in view of the time of day -- we worked out most of the arrangements but there were still areas we could not resolve -- that we would attempt to do it following the conclusion of the meeting on the 30th.

But, there were differences that were not acceptable.

Q Now, you referred to a retroactivity proposal that you made to CBS on September 29.

What, if any, reply was made to retroactivity by CBS on September 30?

A I believe the Company was amenable to this, but their conditions had to do with whether we cancelled the agreement after the six month expiration or not. There were some factors that we could not accept, but as I recall it they were not against retroactivity under certain conditions.

Q Well, when the September 30 meeting ended, what agreement if any had been reached with regard to retroactivity?

A Let me say this: there was one facet of it as I recall, that the Company did not want to discuss retroactivity in the presence of NABET.

Q Would you discuss what was said about that?

A Just simply, Mr. Sirmons said that he did not want to discuss it in front of NABET; and as I recall, on the 30th he said there wasn't one god-damn thing he was going to discuss in front of NABET.

To the best of my recollection that is what happened on the 30th. But there was a specific objection on his part to discussing retroactivity in front of NABET, as I recall.

Q Then contract negotiations have resumed since September 30, 1975?

A Yes, they did.

Q And generally in what period of time have contract negotiations been -- Strike that.

Did contract negotiations between the IBEW and CBS resume?

A As I recall they started on January 6 in Santa Barbara.

Q How long after January 6 --

A They went to January 21.

Q Were there any representatives of NABET at any of these meetings in 1976?

A No, there were not.

Q Was there discussion of Union and Company contract proposals throughout the meetings held in 1976 between the IBEW and CBS?

A Yes.

MR. BAKALY: May I have the question, please?

JUDGE BENNETT: Please read that back.

(The record was read back.)

Q (By Mr. Sunness) Now, with regard to the 1972 contract negotiations: was there any specific agreement reached between CBS and the IBEW with regard to treatment of confidential information?

A Was there any agreement? There was no agreement except that the Union would exercise its discretion on any matters that it considered sensitive, as it has done over the years. There was nothing in writing.

Q With regard to these quarterly meetings, say, since the 1972 contract went into effect up until the present date, how many such meetings have been held?

A Quarterly meetings?

Q Yes.

A Well, on the average there were four a year, but I think there were one or two occasions when there were three. So, you could say from '72 through '75 there were approximately ten or eleven meetings.

Q Were you --

A Well, maybe ten, because I don't think the first one got started immediately. But it is close, approximately ten of them.

Q Were you at any of these meetings?

A To the best of my knowledge I was at all of them.

Q And during these quarterly meetings were any requests made by CBS representatives -- Strike that.

First of all, who would attend these quarterly meetings?

A Normally, the business managers of the Union and delegates that they thought were material to any subjects they expected to raise or any the Company might be expected to raise; and the Company brought a number of people. In fact, I think there were anywhere from about 13 to 17 people the Company brought to these meetings.

Q In the course of these meetings did CBS representatives give the Union representatives information that CBS requested be kept confidential, without getting into details about this.

A Yes.

Q And did any CBS representatives ever complain to you during this period of time from the date that the '72 contract went into effect -- did you ever receive any complaints from any CBS representative with regard to a breach of any understanding to keep this information confidential?

A No; on the contrary, we received compliments for our professionalism.

Q I want to direct your attention to a particular quarterly meeting in 1974.

Do you recall a meeting that was attended by a Bobby Wussler from CBS?

A I believe that is Robert Wussler, W-u-s-s-l-e-r.

Q And what position does he hold?

A Mr. Wussler, as I recall, is a vice-president in charge of sports.

Q Where was this meeting held?

A I am trying to recall.

What was the date of that meeting?

Q Well, why don't you tell us the date of the meeting that Mr. Wussler was at.

A I don't recall the date. I would like a repeat of the question.

Q All right. There was a meeting in 1974, a quarterly meeting, that you attended that was also attended by a Mr. Robert Wussler of CBS.

A I could be wrong, but I think it was one at Hasbrouck Heights in New Jersey. I am not certain.

Q What was the date of that meeting?

A (No response.)

JUDGE BENNETT: Why don't you suggest a date.

Q November, 1974.

A Yes, I think that is the date that Mr. Wussler attended.

Q Was Mr. Rugen, Norm Rugen, R-u-g-e-n, of the Chicago local of the IBEW, at that meeting?

MR. BAKALY: Which local?

Q That would be Local 1220 of the IBew.

Was Mr. Rugen at that meeting?

A As I recall he was not; it was his substitute Mr. Blum.

Q And was there any discussion with regard to Mr. Blum being at this meeting?

A Yes; I believe I covered that in earlier testimony.

Q All right. Was any request made by representatives of CBS during this particular quarterly meeting in November of '74 to keep information confidential?

A The Company said that they would appreciate it if the Union understood that there were certain plans that the sports department planned to get involved in as far as coverage of sports remotes.

This is what I remember about Mr. Wussler's attending that meeting. Also, that they could not afford this information regarding their plan to get out to competitiors.

This was discussed, and they accepted our assurance that Mr. Blum was a mature individual who understood the committee's desire to be discrete in divulging any matters that might be sensitive.

So, he stayed.

Q Who did Mr. Blum work for?

A I don't recall, but it was a competitor in Chicago.

Q A non-CBS station?

A Yes.

MR. SUNNESS: I have nothing further of the witness.

MR. DAVIS: Perhaps we might go off the record a moment,

Your Honor?

JUDGE BENNETT: Off the record.

(Discussion off the record.)

JUDGE BENNETT: On the record.

We will recess for lunch until 1:45.

(Whereupon, at 12:15 p.m., the hearing was recessed for lunch until 1:45 the same day.)

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AFTERNOON SESSION

2:00 p.m.

JUDGE BENNETT: On the record.

As I understand it, the Charging Parties have nothing at this time, so we will start the cross.

MR. DAVIS: That is correct Your Honor.

MR. BAKALY: Is that true for both?

MR. ASHE: Yes.

CROSS EXAMINATION

Q (By Mr. Bakaly) Mr. Draghi, commencing, say, in 1957, you began as a business manager of Local 45?

A That is correct.

Q And Local 45 then and now has collective bargaining agreements with the CBS network; is that correct?

A Yes.

Q They also have collective bargaining agreements covering CBS owned-and-operated radio and television stations in Los Angeles; is that correct?

A No; it is the same agreement.

Q Same agreement covering both facilities?

A Both the network and the O&O.

Q Local 45 also represents employees of other radio stations in the Los Angeles area?

A Yes.

Q And to your knowledge does the IBEW have any collective

bargaining agreements covering employees of NBC?

A Not to my knowledge.

Q Isn't it a fact that the IBEW does have a collective bargaining agreement with the ABC owned-and-operated television station in Chicago?

A I am not aware of what they have in Chicago.

Q Now, in the period since 1958, when you have represented employees at CBS in collective bargaining -- I take it you did represent the Local 45 employees at all collective bargaining since 1958 with CBS?

A That is correct.

Q Prior to 1975, you had never attempted to have an IATSE representative at the negotiations.

A I didn't.

Q And did anyone else representing the IBEW, to your knowledge attempt to have the IA present in any negotiations prior to 1975?

A I don't know.

Q Prior to the 1975 negotiations had you ever attempted to have present at CBS negotiations any representatives of NABET?

A I, personally?

Q Yes.

A No.

Q Or to your knowledge was there any attempt to have NABET representatives present prior to the 1975 negotiations?

A Yes, there was.

Q When was that?

A In 1972 negotiations.

Q And who made that attempt?

A Well, I don't know if you would call it exactly an attempt. Arthur Korf was sharing the 1972 negotiations and suggested to me that it might be a good idea.

Q Was that suggestion ever communicated to the company?

A Not to my knowledge.

Q You and Mr. Korf decided it would not be a good idea in 1972, correct?

A In 1972, at that stage of negotiations we were at when Mr. Korf suggested it, I felt it would not be productive at that late stage of negotiations, as he suggested it.

JUDGE BENNETT: That was never communicated to CBS?

A No, it wasn't.

Q So, prior to 1975 there was no communication to CBS of a desire on the part of the IBEW to have a representative of NABET on its bargaining committee; is that correct?

A That is coorect: not to my knowledge.

Q Now, Mr. Draghi, you consider yourself an expert in the broadcasting industry, do you not?

A Well, that term, "expert," let us put it this way: I am very well grounded in the broadcast industry and in negotiations.

Q I think we will stipulate to that, Mr. Draghi.

You have been representing employees in various phases of the electronic broadcasting industry since 1957; isn't that right?

A That is right.

Q And in fact, you have had over the period of time many disputes with the IATSE over jurisdictional matters; isn't that a fact, Mr. Draghi?

A When you say "many," I would have to differ. I have had a number of differences which, depending on one's interpretation, could be called disputes; but a few.

Q And at any time prior to 1975 did you feel the need to have the experience of any IATSE representative in connection with representing electronic broadcasting technicians?

A To this degree: that I have felt for many years it would be in the best interest to all of the labor movement involved in network negotiations in that they would coordinate their knowledge effectively against the networks, who are very coordinated against us.

Q Well, what expertise did you feel that the representative of the IATSE could give you, Mr. Draghi, in representing broadcast electronic technicians?

A The proposals that CBS made to them that they had direct knowledge of, versus what they made to us.

Q Well, does the IATSE represent any of CBS' broadcast

technicians anywhere in the United States or Canada?

A No, but there was a reason for it.

Q That reason is that the IBEW represents all broadcast technicians; isn't that a fact?

A Is this a question? I could like to answer a question.

Q You may answer that question.

A The question is that many times in prior negotiations CBS has advised us at the bargaining table that they could not give certain considerations to us because IATSE would hop on the bandwagon, and many times they alleged that they had made -- not made certain concessions to IATSE or had deliberately discouraged them in their claims regarding certain conditions or other areas involved in their agreement that had a bearing on us.

So, the purpose was to have these individuals there, as best as I can ascertain.

JUDGE BENNETT: In this Complaint is NABET only referred to?

MR. BAKALY: That is correct.

JUDGE BENNETT: Let us have another question.

Q (By Mr. Bakaly) Is it a fact, Mr. Draghi, that in the negotiations between NABET and NBC that preceeded the 1975 negotiations between the IBEW and CBS, the IBEW was permitted to be present in those negotiations; isn't that a fact?

A Are you talking about the NBC network negotiations?

Q Yes.

A Were they permitted?

Q Yes.

A To the best of my knowledge they requested an observer from IBEW attend their negotiations.

Q NBC and --

A NABET.

Q And isn't it a fact that the reason you wanted to have a NABET representative present in your negotiations with CBS was because NABET had permitted you to be present in their negotiations with NBC?

A No, it was not. I could elaborate.

Q When did you first meet Mr. Nolan?

A Oh a number of years ago. Off and on I have met Mr. Nolan.

Q A number of years ago before 1970?

A I think I met Mr. Nolan some four to six years ago.

Q So about 1970?

A Close. Approximetly yes.

Q And you met him at an AFL-CIO meeting of some kind, is that correct?

A I don't know if it was an AFL-CIO meeting but I met him in the nature of contacts among the labor movement.

Q Did you meet him more then once prior to September 4, 1975?

A Yes

Q About how many times had you met with him prior to September 4, 1975?

A Meet with him? I met him, I would say, on approximetly two or three occassions.

Q You were chairman of the IBEW committee in negotiations with CBS in 1975, is that right?

A That is correct.

Q You had the responsibility for contacting NABET with respect to having a representative present at those negotiations is that right?

A No, it was not.

Q When did you first learn that there was going to be a NABET representative in the IBEW negotiations, Mr. Drachi?

A Sometime before those negotiations commenced. I believe I received a letter from the International president, Charles Pillard, or first I received some word by telephone that NABET and I had been invited.

Q You did not make that invitation?

A No, I did not.

Q Was it a telephone conversation that you learned of this?

A Yes and then later by letter.

Q With whom did you have the telephone conversation?

A I believe it was Jack Kane of the international office.

Q Did he call you and tell you that the international office had decided to have NABET and an IA representative

present at negotiations?

A No, I believe it was during a conversation I had with him on other business in which the matter came up.

Q What was said about this?

A Just that they had been invited to participate as observers by the international president and superintendent of the offices of president Diehl and Adlinch, president of NABET.

Q Did you express displeasure at learning this news, Mr. Draghi?

A No, I did not.

Q Did Mr. Kane inform you who was going to be present representing NABET?

A At some stage he did.

Q And in this first conversation did he say that "We have asked for Mr. Nolan because of his particular expertise," or something of that regard. Was that said?

A No. What I think I recall what Mr. Kane said is that he had left it up to the international president of IA and NABET, the international presidents, to select the men that they felt were best equiped to represent this area of our negotiations.

Q Best equiped to represent their Union, is that correct?

A No. To represent people who were knowledgeable as far as the negotiations that took place with the networks.

Q Did you have an opportunity to suggest people that you

might like to have on the committee representing the IA or NABET?

A I believe I indicated when he mentioned that it would probably be Mr. Nolan and/or Mr. Lynch that I felt these would be quite satisfactory.

Q Now, did you have any discussion with Mr. Kane as to what kind of expertise these men would bring to the negotiation?

A Only to the degree that I knew of their qualifications and their participation in network negotiations from earlier meetings with the gentlemen and that they were very equiped so that we didn't have to go into it in detail. I knew their qualifications.

Q While you also had copiesof the NBC-NABET collective bargaining agreement, did you not?

A That is correct.

Q You also had copies of the ABC-NABET collective bargaining agreement, is that correct?

A Would you repeat that please?

Q You also had copies, prior to the negotiations in 1975, of the most current ABC-NABET collective bargaining agreement?

A That is correct.

Q So that you knew the terms and conditions upon which the NBC and ABC employees were employed, isn't that a fact?

A I knew the conditions but not the basis on which these conditions were arrived at or what NABET got for them or what

the Companies argument was in relation to requesting them or in effect getting them in return for what they gave to get them.

So, I did not know what the interchange was during the negotiations that led to those conditions in those agreements.

Q You could have found that out by talking to Mr. Nolan though or the representative of IATSE, could you not?

A No because it would be hard to anticipate what allegations CBS was going to make in referance to its competition and what NBC had or what ABC had; and the best people to refute it were the ones who were present during the time these occurances took place.

Q Well did any representative of CBS in any negotiations in 1972 or 1975 talk about what NBC or ABC was doing?

A At various times, yes.

Q Mr. Draghi, when was this conversation with Mr. Kane?

A I don't recall. It was sometime following the rumour I got that these people were being invited. Someone brought it to my attention and during the course of my conversation with Mr. Kane I asked him if it was so and he said it was.

The exact date I don't recall but --

Q In that conversation with Mr. Kane did you also enquire about the rumours that you had heard that there was discussions between the IBEW and NABET in terms of a possible merger between those three units.

A No, not specifically.

Q Well what did you say in that regard?

A I didn't say anything in that regard. Possibilities of a merger have been rife in this industry for years. We hear them with such routine that you don't know whether it is so or not. It is a question, you know, of crying wolf.

To the best of my knowledge there has always been an interest at least as far as NABET is concerned in seeing if NABET would find it in their best interest to become part of the IBEW.

Q And there was serious discussions toward a merger of NABET into the IBEW this spring and summer of 1975; isn't that correct/

A Not that I can personally verify.

Q Well, that you heard about?

A As I said I heard these rumours for so long.

Q Did you hear these rumours in the spring or summer of 1975 about a prospective merger between NABET and IBEW?

A No.

Q You heard nothing in the spring and summer of 1975?

A In responding to your question -- and I have to clarify -- your question is if I heard anything, a rumour, regarding a prospective merger.

What I heard is that our people would like a merger but not a prospective merger.

A In the course of a conversation. I believe I was at one time at the international office.

Q Of the IBEW in Washington?

A Of the IBEW in Washington and I heard that there was still an interest in seeing if something could be done in this regard.

Q An interest in behalf of the IBEW?

A That is correct.

Q And who did you have this conversation with?

A One Arthur Korf.

Q He was the business manager of Local 1212?

A No, he was not at that time. He was then an international representative.

Q When did that discussion take place?

A I was back in Washington D.C. on a case involving the AFL-CIO and I was in the internationals office at that time and I ran into Arthur Korf and we just kicked it around. It was a routine type of conversation.

Q Isn't it a fact, Mr. Draghi, that one of the reasons the IBEW wanted NABET representatives present in the 1975 negotiations with CBS was, it would enable them to promote their planned merger with NABET?

A No. At least may I qualify it: not to my knowledge.

Q Not to your knowledge?

A Not to my knowledge.

Q About two weeks prior to July of 1975 you testified to a telephone conversation with Mr. Sirmons?

A I believe it was about two weeks to a month or some such period of time, yes, I do testify to that.

Q And I believe that you asked him why he was calling you?

A That is correct.

Q Did you say that because you assumed Mr. Sirmons had had discussions with the international office concerning the subject of this telephone call?

A No, I think at that time -- I forget whether the matter had been raised in what we call the trades, meaning the publication dealing with the entertainment industry, whether this had come up.

My question was, in effect, directed to why is he calling me instead of the international office, who were the invitees (sic), and this was the more appropriate party to go to.

Q In other words, the international invited these people, and he shouldn't have talked with you.

A That is correct.

Q Now, after that telephone conversation on July 14 did you have any conversations with Mr. Sirmons concerning the possibility of NABET or IA representatives at the negotiations?

A I eon't recall any.

Q And during the two meetings of July 14 and July 15 in

Ossining, New York, there were no conversations across the bargaining table concerning NABET or IATSE representatives being present at the negotiations, were there?

A Not to my knowledge.

Q Now, on September 5, 1975, you testified that when the IATSE representatives were present there were discussions concerning the jurisdictional proposals.

A That is correct.

Q Those were jurisdictional proposals in the radio broadcasting industry, weren't they?

A Primarily, as I recall, yes.

Q And the IATSE does not represent employees in the radio broadcasting industry; is that correct?

A To the best of my knowledge they do not.

Q Now, on September 8 --

A May I qualify that? In Los Angeles, to the best of my knowledge, they do not.

Q Now, on September 8 you testified that a Shery Wolfe was present at the negotiations.

She was then assistant business representative of Local 1212; is that correct?

A I was given to understand she was an assistant to the business manager.

Q Assistant to the business manager.

A May I say something? I may have called Shery Wolfe

Shirley by inadvertance. The correct name is Shery Wolfe.

Q Right, that is correct.

Did she attend any meetings other than the one on September 8?

A I don't believe so. I think it was only that one meeting.

Q During this period from September 9, Mr. Draghi, to and including September 30 -- and I know it is hard to determine one day from another in that period of time -- during the course of that period of time did the Company suggest various ways to avoid the impasse in proceeding with negotiations?

A Yes, they did.

Q isn't it a fact that the Company proposed to exchange legal positions and protect each others interests, but to continue negotiating without NABET being present?

A They proposed continuing without NABET being present, and that each would be able to arrive at a legal position that would protect each other's particular legal position; that is correct.

Q The Company made the suggestion to elect small side bar committees which would continue the discussing of proposals, both Union and Company, while the legal matters were under review and study.

A They didn't propose electing; they proposed their side selecting. As I recall, it went from each division of the Company, and we would select whom we deemed was necessary to

participate in those suggested subcommittees.

But they did not suggeste negotiating in subcommittees; they suggested ostensibly an exchange of information without NABET being present for the purpose of trying to explore areas, yet without them being considered in negotiations.

As I believe I mentioned in my testimony earlier, this was supposed to be the basis of us receiving preliminary information to base our positions on at a later time.

Q The Company also at some time during this period of September 9 to September 30 suggested suspending negotiations and convening quarterly consultations in order to discuss the problems between the parties; isn't that correct?

A Not to my recollection, it is not correct. I don't believe quarterly consultations as a means or vehicle were suggested.

Q You have no recollection.

A I don't recall it.

Q Now, you testified that on September 16 the Union offered a pledge of confidentiality; is that correct?

A That is correct.

Q Isn't it true that this pledge was proposed to be executed by the committee?

A Both committees.

Q The Union committee and the Company committee.

A That is correct.

Q But your proposal did not include a pledge of confidentiality being executed by any individual; isn't that correct?

A Whoever participated on those committees -- and we were talking not just the committees; we were talking about anyone the committee might use as a vehicle to express the committee's position, whether it was the IBEW committee or the Company committee -- we were quite aware that someone might get cute, and for our part we were thinking the Company might get cute iand in divulging this to someone else they could say it was not a member of the committee who would be divulging this material, but someone other than the committee, because this then would relieve them of that pledge of confidentiality.

So, the whole thrust of that was, it would be binding on both parties to see that anything confidential was fully protected.

Q But it would not be binding on any individual; it would just be executed by the committee; isn't that correct?

A I would have to differ with that. As long as a person is a member of a committee, it was binding on that member as a part of that committee.

Q Mr. Draghi, I would like to call your attention to a document which has been handed to me by the General Counsel, which purports to be in your handwriting.

MR. DAVIS: Could we have some better identification of this cocument, Counsel, so we can follow along? Is it dated?

MR. BAKALY: It purports to be a series of notes, dated in various parts. The one I am referring to is dated as of 9-16-75.

Do you have that?

MR. DAVIS: I think so.

MR. BAKALY: It is marked page 3, but they have a lot of pages 3. It is page 3 of 9-16-75.

Q (By Mr. Bakaly) I show you this document, consisting of many pages stapled together, and I ask you if you have seen this document before?

A I have to go through each page.

JUDGE BENNETT: Is that your writing?

THE WITNESS: It is. This appears to be a document that I recognize.

Q (BY Mr. Bakaly) These are copies of notes you took at these negotiations, are they not?

A Yes.

Q Now, directing your attention to the particular page marked page 3, September 16, 1975, I call your attention to the first entry on that page, and ask you to read it to yourself, Mr. Draghi.

A Yes.

Q Does that refresh your recollection --

A It does.

Q Just let me finish the question.

— as to the pledge of confidentiality that was to be executed by the committee and not by any individual.

A Yes.

MR. DAVIS: I don't want to be unnecessarily intrusive, Your Honor, but it seems to me there was no contest on that point. I think the witness has been testifying in response to questions about what the significance of that fact was, but I don't think there has been any dispute on the fact.

JUDGE BENNETT: I think it is a question for argument, basically, whether or not a committee agreement is binding on the individuals.

MR. BAKALY: The question has been answered; I am satisfied.

THE WITNESS: Your Honor, I wanted to clarily that question in the context in which that was explained, if I might. I will be short.

JUDGE BENNETT: Well, you have already explained what that meant to you.

MR. BAKALY: Your Counsel will have an opportunity on redirect to ask you such questions, Mr. Draghi.

THE WITNESS: I adhere to what His Honor has instructed me.

Q (By Mr. Bakaly) A Mr. Gary Blum that you testified was

present at the quarterly session in November, 1974, was an assistant business manager of the Chicago local; isn't that correct?

A I don't recall. I know that he was representing Chicago at that time, and I forget the title that he may have had at the time.

Q He was there representing the Chicago local of the IBEW.

A That is right.

JUDGE BENNETT: You said November, 1974?

THE WITNESS: November, 1974.

MR. BAKALY: Did I mis-speak, Your Honor?

JUDGE BENNETT: No; I just wanted to make sure we had the right one.

Q (By Mr. Bakaly) You testified to negotiations resuming on January 6, 1976, to January 21, and that no representative of NABET was present during those negotiations, Mr. Draghi.

Were any representatives of the IATSE present during any of those negotiations?

A No, they were not.

Q And you testified there was a discussion of the Union contract proposals during this time.

There was also a discussion of the Company contract propocals during that period of time, was there not?

A That is a fact.

MR. BAKALY: No further questions of this witness at this

time, Your Honor.

JUDGE BENNETT: We don't have anything in the record to indicate whether an agreement was ever arrived at in 1976.

MR. SUNNESS: No.

MR. ASHE: The answer is, no.

MR. DAVIS: None has been arrived at yet.

JUDGE BENNETT: I assumed that.

MR. BAKALY: We will so stipulate.

JUDGE BENNETT: Anything further of the witness?

MR. SUNNESS: Yes.

REDIRECT EXAMINATION

Q (By Mr. Sunness) Mr. Draghi, let me show you page 3 of your 9-16-75 negotiation notes, and the reference at the top of page 3 to a pledge to be executed by the committee not by the individual.

Is there something that you wish to further explain in regard to that?

A Yes. The committee was responsible for the course, and is responsible for the course, of negotiations. What we were saying is that Mr. Nolan, as a member of the committee, was bound by the decisions of the committee and would have to abide by it, and it would have been understood as such; otherwise Mr. Nolan would no longer have been a member of the committee.

Q This was said during September 16?

A No, it was said with the exception that we didn't say, Mr. Nolan would no longer be a member of the committee. We did say the remainder of that.

The committee spoke as a responsible agent with regard to these negotiations, and Mr. Nolan as a member of that committee had to be bound by the decision of the committee.

Q Would he be bound by the pledge of confidentiality?

A Yes, that was the whole thrust of this; he would have to be bound. The committee pledged confidentiality, and Mr. Nolan had to understand it and would be so bound.

MR. SUNNESS: I have nothing further.

MR. DAVIS: I just have two questions.

Q (By Mr. Davis) Mr. Draghi, on cross you testified that CBS at one point towards the end of September, '75, proposed that the parties proceed with negotiations without the presence of anyone from either NABET or IATSE, and process their charges through the Labor Board.

Was that correct?

A I believe the testimony just mentioned NABET; I don't recall it stating IATSE.

Q Was that the basis upon which negotiations resumed in January of 1976?

A May I ask of you to repeat that original question. I guess I lost a bit of it there.

Q The first question was, was it correct that CBS proposed

that the parties negotiate without the presence of a representative of NABET, and process charges to the Labor Board?

A That was the essence of it; that is correct.

Q And the second question: was that the basis upon which the negotiations were in fact resumed in January of 1976?

JUDGE BENNETT: You are referring to the absence of NABET.

Q Right.

A I cannot speak of direct knowledge. This is something that --

MR. BAKALY: Then, Your Honor, I suggest if he has no knowledge, that that be all we hear of this.

JUDGE BENNETT: I am inclined to agree.

MR. DAVIS: Okay. I have nothing further.

MR. ASHE: No questions.

JUDGE BENNETT: Is that all you have?

MR. BAKALY: I have no other questions.

JUDGE BENNETT: You are excused, then.

(The witness was excused.)

JUDGE BENNETT: We will take a five-minute recess.

(A short recess was taken.)

JUDGE BENNETT: On the record.

As I understand it, the General Counsel rests.

MR. SUNNESS: Yes, Your Honor.

JUDGE BENNETT: Then the Charging Parties?

MR. DAVIS: The Charging Parties have nothing to present.

JUDGE BENNETT: All right, Mr. Bakaly, you may present your case.

MR. BAKALY: Mr. James Sirmons to the stand.

Whereupon,

JAMES F. SIRMONS

was called as a witness by and on behalf of the Respondent and, having first been duly sworn, was examined and testified as follows:

DIRECT EXAMINATION

Q (By Mr. Bakaly) Could you please state your full name and by whom you are employed, Mr. Sirmons.

A James F. Sirmons. I am employed by CBS Inc.

Q And for how long have you been employed by CBS Inc?

A CBS Inc is a relatively new corporate title; but before that Columbia Broadcasting System over a span of 34 years.

Q And what is your present position, Mr. Sirmons?

A I am vice-president of industrial relations for CBS Inc.

Q And would you briefly cite the positions you have held with the Company since becoming an employee?

A The first position was production supervisor. This was back in the radio days, prior to television.

Operations manager when it was a department head title. It no longer is. Assistant director of labor relations;

director of labor relations; vice-president of personnel and labor relations and vice-president of industrial relations.

Q When did you commence having duties in the industrial relations or labor area?

A In 1957.

Q And what had been your duties in connection with industrial relations at CBS FM from that date forward to the present?

A Well, largely I am responsible for negotiating collective bargaining agreements and administring collective agreements.

Q Including arbitrations?

A Including arbitrations and board matters, proceedures relating to that responsibility.

Q Now, in 1951 was the International Brotherhood of Electrical Workers a certified nationwide unit of broadcast technitions employed by CBS or its predecessor?

A Yes, it was.

Q And what was -- as a result of that certification was a collective bargaining agreement entered into with the IBEW and its Locals?

A Yes, it was.

Q When was that first collective bargaining agreement following the 51 certification, if you recall?

A I think it was 1952.

Q Now, CBS -- and when I say CBS I am referring to the

present Company and its predecessor Company -- had collective bargaining agreements with the IBEW since 1938?

A That is correct.

Q What was the area of work covered by the IBEW from '38 to '51?

A Well, the earlier agreements of course were radio agreements and as such were far simpler then the present agreements. They covered the standard radio technology and the work relating to the installation and maintenance of the equipment that was involved in radio broadcasting.

Later on, in the mid '40's when we began to get into television, at first on an experimental basis and later on on a full commercial basis, clauses began to appear in the collective agreement that dealt with the more complex subject of television but by and large the contract until the national agreement in 1951 or 52 was a radio agreement, fairly simple, and updated with each passing negotiation.

Q Now --

JUDGE BENNETT: And then television was added?

THE WITNESS: Television was added to it and many of the old clauses were retained.

Q (By Mr. Bakaly) Commencing with that in 1952 will you briefly tell us the work covered by the collective agreement that was entered into with the IBEW in 1952?

A Well, it is not as clean cut as it might sound when you

describe it as a national bargaining unit. There was some exceptions that related to given work in given locations but by and large it was a broad ground of jurisdiction over work relating to radio and television, technical equipment and the operation of that equipment, electronic and technical as well as, in some instances, the construction of it, the installation of it and in almost all instances the maintenance of it.

Q Now, you were present at the collective bargaining negotiations during the period 1952, or most of them, 1952 up until 1972.

In order to speed things up, will you just tell us the nature of the collective bargaining negotiations generally during that period of time from 1952 to 1972, not including the 1972 negotiations?

A All right. Well, let me first say that I did not participate in negotiations until 1958. I had some responsibilities as a department head until 1957 that impacted on the technicions contract and so I knew it quite well but I had no direct responsibilities for it.

So I can really only speak from 1958 on, however, I was familiar with the changes each time from '52 to '58.

I think that from '52 to '69 and certainly in the latter part of the sixties the negotiations were fairly classic kinds of negotiations where the Union's sought improved wages and

working conditions and increasing restrictions on the Companies freedom to operate as it had historically operated. This I would consider to be the normal maturing of our collective relationship. Nothing really unusual during that period.

We had some developments technically during that period, the video tape period began in the late '50's and was the cause of a strike in 1958 or a dispute in jurisdictional areas but by and large that was the major downtake during that period.

Q Now did this general relationship start to change in some particulars from the period after the 1969 negotiations?

A I would like to think that the relationship didn't change. We feel we have always had a good relationship with this Union. We are signatory to so many contracts even if we weren't otherwise inclined we would be forced to have good relationships simply because there are so many of them but we do have a good relationship with our Union, with this Union and with others.

I think what you are referring to is the realization on the part of the Company -- and we believe we were the first to come to grips with this reality of broadcasting -- that the days of the purely mechanical and optical film were giving way to the electronic mode of doing things in broadcasting. This impacted very, very heavily, as we saw it, in our whole news field, news gathering and somewhat less strikingly at that

time but nonetheless clear that it would impact in the purely entertainment and entertainment production field and the post-production field.

We began during the 1969 contract to prepare ourselves and position ourselves with the Company for a leadership position in the innovative use of technology and to develop a business plan and strategic plans in order to accompolish that.

Q What did the Company do in that regard in preparation for the 1972 negotiations?

A During that period we happened to write up an experimental basis news coverage in Washington with some supplemental crews in addition to the basic coverage with film crews covering under the IATSE jurisdiction. We had some crews, one or two, three I think was the maximum, using the minicam type of equipment but trying to cover news electronically. We had good success, not outstanding success, we ran into substantial problems resulting from the size of the equipment, the fact that it was cumbersome, the fact that it all had to be recorded on two-inch quad tape, the fact that the collective agreement did not lend itself as the IA agreement did in the news reel field to this kind of function, this kind of activity, because its point of referance was to the old work.

So, during this period in trying to study, to get to your question, in trying to study what we really had to have in the

1972 negotiations to put us in a position to get this leadership that we fought, we realized that we had to make some changes in the IBEW contract because here is where the electronic jurisdiction resided.

Q Maybe you could just briefly for the Judge explain the differance between the use of the electronic camera and traditional motion picture camera for the gathering of news generally?

A Well, I suspect he has seen news reel cameras in operation. They are cameras that are fairly self-contained, they have reels of film and you can shoot only so much footage and then you have to take it out and change it and you've got to find a way to get that film to a processing lab or development lab and there is a significant amount of time before you can get it on the air, several hours.

With the electronic mode even with the clumsy equipment that we were using during the period I am talking about here, at least we had the opportunity of recording it on video-tape on the scene although it was very heavy and very clumsy, or finding a way to microwave it back to the studio and get it on the air almost instantly so that your time lag was virtually done away with.

JUDGE BENNETT: You made a referance to the IA?

THE WITNESS: Yes, sir.

JUDGE BENNETT: What is it the IA people do?

THE WITNESS: Well the IATSE has jurisdiction over film by and large, I think there is only a couple of exceptions to that which are not material to this discussion, but in the news field since the beginning, going back as far as Pathe and all those very early motion picture theatre news reel things, the IA has had jurisdiction over news reel fitting.

The differance here is that this unit, the IBEW, because of its broad jurisdiction over the operation of electronic equipment had jurisdiction over electronic cameras.

So, when we saw that we were going to have to force fit a transposition of this film job over/under the electronic job, we had to look at the electronic contract and see for ourselves if it was possible to do that with a contract that had for a frame of referance, studio operations, a different frame of referance.

That was our problem and in the contract period of '69 to '72 that is what we did. We made that study, I would say over a period of about eighteen months. We did it very earnestly and as diligently as we could so we were sure that we covered -- we had determined what our business plans were, what our objectives were and we had decided as a Company that we were going to be the leaders in the industry and the only question remained what in good faith did we have to propose in the way of changes in the '72 contract.

Q (By Mr. Bakaly) Just one thing before we get into the '72

contract, Mr. Sirmons, to close off this distinction.

Most of the news shooting occurs outside of a studio environment; isn't that correct?

A Almost all of it, yes.

Q I take it that it would be possible to have a news conferance of some magnitude that had been planned, like a Presidential fireside chat, in which it would be possible to do that in a television studio type settting with the proper notice and arrangements?

A Yes.

Q But aside from that kind of exception most of the requirments for news are at the place where news is being made?

A that is correct.

Q Which is not the studio but the real world?

A Right.

Q Now, what then did — did CBS have negotiations in 1972 with the IBEW?

A Yes and I neglected to mention in preparation that we also looked at the area of production technology which was beginning to surface as a very important area of change for us, also making possible the transferance of some of the production from film entertainment production, making possible improved techniques in producing on video-tape which was this Union's jurisdiction. We analyzed what we knew about that

technology and we got the best minds to focus on where that technology was going to go and we made some proposals in connection with that because the '72 contract would not have accomodated the things that were needed.

So there were two large things: the news changes and the production changes.

Q Now directing your attention to the period just before the '72 negotiations, did CBS consider alternative approaches for obtaining these changes in the collective bargaining agreement with the IBEW?

A Well the only one we considered was simply to restructure the whole jurisdiction section of the agreement.

Q What would that have entailed?

A It would have entailed re-writing section 103 to remove the broad grant of jurisdiction and be selective: these are the things you have jurisdiction over and these are the things you don't.

We decided that was not wise and not good faith and that we have lived all these some thirty odd years with the contract as it was and that we would attempt to simply overlay exceptions that would represent the changes we thought we could justify.

We discarded that as an alternative.

Q What proposals then did CBS make in the 1972 negotiations for changes in the collective bargaining agreement?

A Again I would like to characterize this as news and production if I may just to keep it simple and I would like to satisfy the radio changes which are very important to us but hardly the kind of subject that we are discussing here. That leads to the sort of confidential information problem I think we have faced.

On the production side we recognized that there were some things coming out, some of which were already on scene and known about that were designed for a creative person, an artist, if you will, to substitute for his traditional tools: an electronic tool. And to come up with a product that was certainly very usable, very fast and desirable from the point of view of speed and avoiding the number of intermediate steps.

There was such devices on the scene but our contract would not really permit the artist to do the kinds of things that the machine was designed to allow him to do.

There was a character generator for example that we knew had the potential to be a very highly creative tool for an artist to use, up to then technicians had done the fairly simple alpha-numerics on character generator types of equipment.

JUDGE BENNETT: What do you mean by 'character generators'?

THE WITNESS: It is an electronic device usually

activated by an input device which is a keyboard that electronically creates, instantly creates, names and numbers for graphics people, graphic artists, and people of that sort and we have many graphic artists.

We saw that during the term of the 1972 agreement that kind of equipment, as the generations of that equipment came along, which our engineering people who are largely involved in development of this could tell about, which would enable the non-technician, that is, the artist or somebody who is involved in using it more creatively then a technician could, to have to have the means of doing that.

That meant some changes in the collective agreement.

There was another device, rather primitive at the time, that was called a telestraighter, it was kind of a free hand device that enabled an artist or a person on the air to illustrate what he was saying by using a light panel to illustrate electronically what he was saying or in the case of the artist perhaps to do some of those things.

We felt that at that time the marriage of these two kinds of basic electronic instruments would enable us to have a whole new dimension of electronic art and to improve our image on the air and to eliminate certain steps but the impediment was the collective agreement which because of its tradition going all the way back was flat-footedly a technicians jurisdiction.

We felt that what we needed was to carve out certain areas enough so that those instruments could be used by the creative people or the people on the air for whom the instruments were designed.

So, in the production side, that kind of thing was what we were proposing to change. We made a number of proposals to accompolish that.

On the news side the problems were largely working condition problems and they centered on the rigid -- what we considered to be rigid requirments of the news. The meal period provisions.

Q (By Mr. Bakaly) Explain those meal period provisions as they existed in the agreement prior to 1972 --

MR. DAVIS: Excuse me, Your Honor, may I enquire as to the relevance of this entire line?

JUDGE BENNETT: Actually we have one narrow issue before me and based on the unique piece of equipment -- and I don't know if the record indicates this or not but we have something set up in the courtroom which I am supposed to look at -but can't we come directly up to 1975?

MR. BAKALY: Let me just briefly, Your Honor, state the purpose.

We expect to prove -- and this is really background and without interuption it isn't going to take much longer -- we expect to prove the commencement of this pattern and practice

of this Company in good faith bargaining to disclose to the Union the reasons why on the need for changes in the agreement and that those reasons and that system of bargaining in '72 and the disclosure of secret confidential information enabled the parties in 1972 to arrive at a collective bargaining agreement albeit after an eight week strike in which the Company did obtain some or most all of these proposals that it was after.

It was in the backdrop of that history -- and we have to establish that -- to show that 1975 we were coming up against the very same thing and we want to show that it is an impediment, a complete chilling effect on bargaining, that when we would not be able to give the reasons, the confidential business reasons why we need certain changes in the collective bargaining agreement. It is vital to the case.

JUDGE BENNETT: We have the '72 agreement in evidence.

MR. BAKALY: That is right.

JUDGE BENNETT: Can't we come up to the next round of negotiations?

MR. BAKALY: I think we are not far from there but I don't think we have gone into the subject of confidential information that was disclosed, which at that time in '72 was extremely confidential, was not known to the industry and as a result of that enabled CBS to really get a jump on its competition in the newsgathering and production area and

establish its leadership.

Now we want to establish that evidence as to what happened in '72 thru '75 and then we will get to the 1975 negotiations.

I don't think we were talking about more then 15 or 20 minutes.

JUDGE BENNETT: All right. I will follow it but perhaps the witness will try to keep his answers shorter.

MR. BAKALY: I am afraid of getting into too technical matters which the Board will be unable to evaluate. The engineering aspects of that I am hoping we won't do, and I certainly appreciate your questions, Your Honor. If we are into areas that are not understandable to you I would appreciate you telling us and we would clear it up.

JUDGE BENNETT: All right. I will follow it.

MR. DAVIS: I don't know if there is some way of short circuiting it. I don't know that anybody on this side of the table disagrees that CBS has in the past been generous with information. I am just wondering how that is relevant to the issue before Your Honor which is rather narrow and clearly drawn.

Certainly the historical background how radio began in 1938 is fascinating but not relevant.

JUDGE BENNETT: Well we have the issue of the choice of a bargaining representative which -- or the composition of the

bargaining representative which certainly was in the General Electric case.

MR. BAKALY: Well, Your Honor, the board has not decided that case.

JUDGE BENNETT: Be that as it may. Actually I am in agreement with both Counsel and I am trying to walk a tightrope between you.

MR. BAKALY: We will try to move on as quickly as we can. We understand Your HOnor's concern to conserve time and maybe we can get on with it.

Q (By Mr. Bakaly) What other proposals in the news gathering area did the Company have on the table in the 1972 negotiations, Mr. Sirmons?

A The principle proposal was a change in the meal period provision. There were other proposals but we focused on that one as being the most serious impediment to the development of electronic news gathering because of the needs to cover news as it happens and the inability to conform to the rigid requirments of the meal period provisions.

Q The old agreement had a provision that within -- after the second hour and before the end of the fifth hour of employment a person had to be given one hour off to have lunch; is that correct?

A That is correct.

Q And there was no provision for any payment of a penalty.

It was a straight restriction that he had to have the one hour off except in an emergency situation?

A That is correct.

Q Now, when the Company make these proposals to the Union did it demand proof of the possibility of needing this relief because of what you claim to be these technological needs?

A Yes, I think the Union was highly skeptical of our good faith at the time. I am sure they thought, because they expressed these thoughts, that we were overstating the need to change the contract, that there was a certain amount of blue sky effect that we were presenting to them about things that they said might never happen and you are asking us to change the contract.

We knew a great deal more about the state of the technology and what was coming and felt that we absolutely had to reveal as much as we knew including in order to convince them of the legitamacy of the proposal and to reveal our plans in connection with that.

We reached the decision to do so at that time and we did so during the course of the 1972 negotiations.

Q Briefly tell us what the confidential information you did disclose to the Union in the course of the 1972 was?

A It had to do mainly with the plans to use the production technology that I described before by non-technicians and the need to change the contract to allow that. It was a

combination plan involving us and people on the air.

The principal change was however in the news field where we told them what our plans were. We told them that we were ready, we felt, to take the step from the cumbersome mini cam type operation which had been successful up to a point, that we now knew that we had available to us miniaturized cameras and much lighter equipment that would enable us to go at a much faster pace if we could get relief in the collective agreement in the gathering of news electronically and we told them we had plans to do that. We told them what those plans were in as precise a way as we could and at one point we were fortunate in being able to obtain a piece of equipment that was a small electronic camera that we had obtained options on and we flew it in from Seattle and showed it to the group in operation and I think that that was the meeting in the '72 negotiations which convinced the Union committee that we not only knew what we were talking about but that we were very serious about it.

Q Now at that time when you showed the electronic ENG, the electronic news gathering camera, to the Union was it a trade secret or was it generally known to the industry?

A No, it was not generally known. We were under restrictions from the developer, the disclosure of that information was tightly held. We had to get special permission to show this to the Union but we felt we had to do that. We had to go as far as we could.

JUDGE BENNETT: Did your competition acquire this camera?

THE WITNESS: Not for a long time after that.

Q (By Mr. Bakaly) Did the Union as a result of that, Mr. Sirmons, agree to certain modifications in the agreement that enabled you to use the ENG camera following the '72 negotiations?

A The Union did agree to changes which made possible the development of electronic news gathering using the equipment such as the camera we showed them which we had an absolute tight option on at the time.

Q And are these changes basically set forth in the letters of intent and understanding that are attached to Exhibit 1 commencing page 74?

JUDGE BENNETT: You say Exhibit 1?

MR. BAKALY: Excuse me, General Counsel's 3.

JUDGE BENNETT: What page are you referring to?

MR. BAKALY:L Commencing with page 74 and following.

Q (By Mr. Bakaly) Now as a result of the changes you were able to obtain in 1972 did you obtain a competitive advantage over the other two networks in the news gathering and production technique areas?

A Without question we obtained a substantial lead time over the rest of the industry and particularly our major competition which are the other two national networks. We did this by embarking on a program to convert from film to

electronic as rapidly as technology would permit and to follow a master business plan both network and local stateion that would achieve this within a certain time frame.

We revealed that information to the Union at the time.

Q Could you give us some examples of the use of this electronic news gathering material in the period '72 to '75 that did enable you to get an advantage on the other networks?

MR. DAVIS: I really have to object to that, I can see no possible relevance to that, Your Honor.

JUDGE BENNETT: Read the question back.

(The question was read back.)

JUDGE BENNETT: I will take the answer.

MR. SUNNESS: Your HOnor, I don't think there is any real issue in the fact that this would be a trade secret, that the advantage they would gain would go to that issue.

JUDGE BENNETT: Actually I think it might well lend itself to a stipulation.

MR. DAVIS: Well, Your Honor, I must say I thought we had a stipulation to General Counsel's 2 but now I am not so sure. I think we have got exactly what General Counsel's 2 was designed this morning to obviate and more. Mr. Sirmons is apparently going to give us an advertising blurb for CBS news right now.

MR. BAKALY: Does the ruling stand Your Honor, if so, we

can get on and finish this?

MR. DAVIS: I have an objection.

JUDGE BENNETT: Refresh me on the G.C. 2.

MR. BAKALY: The purpose of G.C. 2 --

JUDGE BENNETT: That refers to the 1975 negotiations?

MR. BAKALY: That is right and that was to obviate the necessity of broad protective order in order to testify as to the '75 proposals we are about to get to.

MR. SUNNESS: Maybe we could go off the record and discuss the stipulation expanding the '72?

JUDGE BENNETT: Off the record.

(Discussion off the record.)

JUDGE BENNETT: On the record.

You may follow the line.

Q (By Mr. Bakaly) Do you understand the question?

JUDGE BENNETT: Briefly.

A There were a number of instances where news beats and real news advantages were achieved where we were able to cover where others were not able to cover or were able to cover only much later. There were instances for example, the Nixon trip to the far east, where we were the only news medium with electronic coverage which gave us significant news advantages.

JUDGE BENNETT: You are not referring to his most recent trip?

THE WITNESS: No, sir. Did I say far east, I meant the

middle east. This was the middle east trip where he went on later to Russia and came back.

JUDGE BENNETT: All right.

THE WITNESS: That kind of thing.

The Patricia Hearst case, for example, the vigil there where there was a forest of traditional film equipment or extremely large and cumbersome electronic equipment and we there were the only ones that had the new flexible, miniature electronic equipment.

Those are two examples that come to mind but very major in this period was the fact that we established as a news gathering medium our credibility with the developers and manufacturers of this kind of equipment and put ourselves in a position of being first in line so that we were the ones they sought out. They didn't seek the others out because they knew the others did not have such a plan and we were able to maintain a leadership estimated to be a year at least over the competition.

MR BAKALY: I would like you to mark this photograph as Respondent's next in order for identification.

JUDGE BENNETT: That will be R-1.

(The document above-referred to was marked Respondent's Exhibit No. 1 for identification.)

Q (By Mr. Bakaly) Mr. Sirmons, I show you what is marked as Respondents Exhitit 1.

You referred to the vigil at the Hearst kidnapping shortly after Patricia Hearst was kidnapped.

Would you look at R-1 and tell us what that depicts?

A Well, it shows the many pieces of news gathering equipment with various news individuals manning that equipment and it shows that the CBS gear, which I can't even find here as there were so many of them --

Q If you can see it would you circle it?

MR. SUNNESS: Is it the electronic equipment that is to be circled?

MR. BAKALY: Well, we will identify that by another witness.

MR. DAVIS: Is that not going to be a part of the record?

MR. BAKALY: Not now.

JUDGE BENNETT; So far it has just been identified.

Q (By Mr. Bakaly) Are there any other examples, Mr. Sirmons, that come to mind?

MR. SUNNESS: I am going to object at this point. Why do we need more examples?

JUDGE BENNETT: I am going to sustain that point.

Q (By Mr. Bakaly) Directing your attention now to the period following the '72 agreement, did the Union and the Company agree to quarterly consultation meetings?

A Yes.

Q And what was the purpose of agreeing to quarterly

consultation mettings?

A I think the purpose was pretty well stated by Mr. Draghi. In addition it was understood that it would provide a vehicle for the Company to reveal its plans as they were developed, because we found from our '72 negotiations and the strike that resulted from that that we needed dialogue of that sort where we could feel confortable with talking about confidential matters and knowing that there would be no record of them and those talks would not be used in any proceedings that followed.

Q Now, in those quarterly consultation meetings did CBS advise the Union of confiedntial business plans and trade secrets it was contemplating using?

A Yes, indeed.

Q And has the Union to your knowledge ever violated this confidence imposed upon it by CBS?

A There has been no violation of any confidence.

Q Now, as the 1975 negotiations approached -- when did this agreement, General Counsel's 3, expire by its term?

A It expired September 30, 1975.

Q As that negotiation approached did CBS again make a study as they did in 1972 of possible changes that it had to have in this collective bargaining agreement?

A Yes, we did.

Q And would you tell us the results of that study and

explain it to us?

A Well, the study showed that in the production technology area the technology had moved way beyond what we had contemplated in the 1972-'75 agreement, and that there would have to be additional changes in the contract in order to permit us to make use of that kind of technology.

So, we formulated proposals modifying the agreement in order to accomplish that.

In the news-gathering area we had moved well along in our business plan to convert to electronic news. Some technology that had developed made possible an acceleration of those plans, and so we felt we had to have more of a full-scale, national approach to news, which would include the ability to employ free-lance people such as have always worked in the news field, and including additional changes in the meal period provision as well as changes in some of the other working conditions such as notice of days off or notice of schedule and things of that sort.

Q Now, were there also proposals necessary in the area of production?

A Yes; as I said, the production area technology had advanced dramatically, both in the character generator area where in 1972 we couldn't conceive of an input being much more than either a light pen or keyboard. We now realized that the technology was upon us that would, for example, use a camara

as an input device.

So, we had to come to grips with that.

Then, there was a type of device which only we knew about, so confidential that we couldn't tell our own people, but that we had to accommodate within the contract.

And so we made some proposals to enable us to use this very exotic freehand device that artists could use.

Finally, the other major area of production devices that we proposed was in the storage area, digital storage area, where development of a device to store stills and take the place of the cumbersome hand sorting and storing of slides and stills (sic).

I think, perhaps more than anything else we saw the imperative of being able to draw all these things together into a unified business plan which would enable the non-technician, where we could show the legitimacy of it, to be able to use these production devices, either singally or together.

And so we made some proposals to accomplish that.

Q Now, those proposals were made in contract language form on July 14 or 15 in Ossining, New York; is that correct?

A Yes.

Q At that time who was present for the Union and who was present for the Company?

A The Union had a committee made of its business managers

from the various locals, Mr. Kain and his assistant from the international; there were about ten or eleven people from the Union, all representing the IBEW.

The Company had 17 people present, the same 17 that pretty much stuck with us all the way through. Although our committee was 18,there was one individual not present.

JUDGE BENNETT: We will take a five-minute recess.

(A short recess was taken.)

JUDGE BENNETT: On the record.

We have decided to recess at this time until 9:15 tomorrow morning.

(Whereupon, at 4:30 p.m., the hearing was recessed to 9:15, February 25, 1976, in the same place.)

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BEFORE THE NATIONAL LABOR RELATIONS BOARD

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TWENTIETH REGION

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| In the Matter of: | |
| CBS INC. | |
| Employer | |
| -and- | Case No. |
| INTERNATIONAL BROTHERHOOD OF ELECTRICAL WORKERS, AFL-CIO, AND LOCAL 4, LOCAL 45, LOCAL 202, LOCAL 1200, LOCAL 1212, LOCAL 1220, AND LOCAL 1228, INTERNATIONAL AFL-CIO | 31-CA-5587 |
| Charging Parties | |

Hearing Room 1, Federal Building,
11000 Wilshire Blvd.,
Los Angeles, California.

Wednesday, February 25, 1976.

The above-entitled matter came on for further hearing, pursuant to adjournment, at 9:30 a.m.

BEFORE:

MARTIN S. BENNETT — Administrative Law Judge

APPEARANCES:

GLENN A. SUNNESS, Esq. — Office of the General Counsel, NLRB, 11000 Wilshire Blvd., Los Angeles, CA; appearing on behalf of the General Counsel.

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|---|---|
| CHARLES G. BAKALY, Esq.<br>-and-<br>ROBERT A. SIEGEL, Esq. | Law firm of O'Melveny & Meyers, 611 W. Sixth Street, Los Angeles, CA; appearing on behalf of the Employer. |
| STEPHEN M. KOPPEKIN, Esq. | Assistant General Attorney, CBS Inc., 51 W. 52nd Street, New York, NY; appearing on behalf of the Employer. |
| RICHARD J. DAVIS, JR., Esq. | Law Firm of Brundage, Beeson & Pappy, 1625 West Olympic Blvd., Suite 805, Los Angeles, CA; appearing on behalf of Charging Parties Local 45 and the IBEW. |
| DAVID I. ASHE, Esq. | Law Firm of Asbe & Rifkin, 225 Broadway, New York NY; appearing on behalf of Local 1212, IBEW. |

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# I N D E X

| WITNESS | DIRECT | CROSS | REDIRECT | RECROSS |
|---|---|---|---|---|
| James F. Sirmons (Resumed) | 113 | 147 | 183 | |

| EXHIBITS | FOR IDENTIFICATION | IN EVIDENCE |
|---|---|---|
| General Counsel | | |
| GC 4 | 160 | 170 |
| Respondent | | |
| R 1 | - | 112 |
| R 2 | 183 | 183 |

PROCEDINGS

9:30 a.m.

JUDGE BENNETT: The hearing will be in order.

As I understand it, the parties have a stipulation.

MR. BAKALY: Yes. We propose the following stipulation: That if a competent witness were called to testify with respect to Exhibit R-1, that the electronic news-gathering camera, and only the electronic news-camera shown in said exhibit is being used by a technician named Mr. Dunn on behalf of CBS Inc.

JUDGE BENNETT: Does the picture indicate the precise location of the camera?

MR. BAKALY: Yes; by a blue arrow drawn down to the ski cap of the individual.

JUDGE BENNETT: I take it that is agreeable?

MR. SUNNESS: Yes, Your Honor.

MR. DAVIS: Yes, Your Honor.

JUDGE BENNETT: All right; that is stipulated.

MR. BAKALY: With that we will offer R-1.

JUDGE BENNETT: Received.

(The document, previously marked Respondent's No. 1, was received into evidence.)

MR. ASHE: But the comment was made off the record, and I think it ought to be put into the record, that we do not see the relevance of this photo at all.

JUDGE BENNETT: You are just stipulating as to authenticity, then?

MR. DAVIS: Yes, Your Honor; that is correct.

JUDGE BENNETT: All right. We will resume the previous witness.

Whereupon,

JAMES. F. SIRMONS

was resumed as a witness by and on behalf of the Respondent and, having previously been duly sworn, was examined and testified as follows:

DIRECT EXAMINATION (CONTINUED)

Q (By Mr. Bakaly) Directing your attention to the 1975 negotiations and the meetings in Ossining, New York on July 14 and 15, 1975, prior to those meetings did you receive any official notice from any representative of the IBEW that they were going to have any non-IBEW members on the negotiating committee?

A I had not.

Q On July 14 were any representatives of NABET or the IATES present in those negotiations?

A No.

Q Those negotiations concluded on July 15th.

A Right.

Q And was there an understanding at that time or shortly thereafter as to when negotiations would be resumed?

A Yes; we established a date of September 3 in San Diego.

Q And did you block out any particular period of time for those negotiations?

A We agreed to set aside the period from September 3 through the 30th of September.

Q And the collective bargaining agreement General Counsel 3 expires September 30, 1975.

A Right, subject to the automatic extension build into the agreement itself.

Q That is a certain number of days notice of cancellation?

A It is a notice of cancellation.

Q Between the conclusion of the meeting on July 15 and resumption on September 3, 1975, did you have any official notice from IBEW that representatives of NABET and the IATSE would be present in those negotiations scheduled for San Diego on September 3?

A No, I did not.

Q [illegible], directing your attention to September 3, I take it that [illegible]gotiations did resume on that day?

A They did.

Q Who was present for the Union and who was present for the Company?

A Approximately the same committee for the Company that was at the Ossining meeting, with the addition of one person; for the Union the committee was about the same, perhaps one or two

that were not present at Ossining were there, but about the same committee on the 3rd.

Q And what occurred in connection with the negotiations on September 3?

A Well, we began negotiating; we began to consider the proposals.

Q The Union proposals and the Company proposals?

A Correct.

Q Now, did negotiations resume September 4?

A Yes, they did.

Q And were there any additional representatives present on September 4?

A Yes; there were two representatives of IATSE, Frank Barnhart of Local 33 and Richard Nimmo of Local 1 in New York. Local 33 is the Los Angeles based local.

Q Prior to you viewing the two representatives of IATSE on September 4, had you had any official notice from the IBEW that those two IATSE representatives or any IATSE representatives would be present at the negotiations?

A No, I received no official notice as to the IATSE presence prior to that date. I was aware they were going to be there through informal conversations which I initiated, and so by the 3rd I was aware that those two gentlemen would be there.

In the case of Mr. Nimmo, he himself told me that, and I learned also from the international president of the IATSE

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that those two gentlemen would be there.

This was informally and not formally.

Q I think the record is clear, but there may be some other question:

You said there were one or two additional members of the Union negotiating committee present on September 3.

I take it these were members of the IBEW?

A They were IBEW people.

Q Now, you said you had informal discussions.

Were these off the record discussions with representatives ofthe IBEW?

A Yes.

MR. DAVIS: Excuse me, Your Honor. I would like some clarification what "off the record," "on the record," unofficial notice," "official notice" mean.

JUDGE BENNETT: Are you talking about September 4 or otherwise?

MR. BAKALY: I am talking about prior to September 4.

JUDGE BENNETT: Did you have any discussions between the 3rd and the 4th?

MR. BAKALY: Well, he just testified he had informal discussions that informed him prior to the 3rd that there would be IATSE and other union representatives present in negotiations. I am just establishing whether those telephone conversations were on the record or off the record. I think

they will speak for themselves.

MR. DAVIS: I think I am entitled to have those two terms defined before the witness answers the question.

JUDGE BENNETT: I think you told us you heard personally from one of the two men.

THE WITNESS: Yes.

JUDGE BENNETT: Was this over the phone?

THE WITNESS: Over the phone. In person, with the international president of the IATSE, we had lunch and he told me that he had designated these two individuals, that he had received an invitation from the IBEW, and that he had decided to send these two individuals.

JUDGE BENNETT: I think that makes the point.

Let us have another question.

Q (BY Mr. Bakaly) Now, getting back to negotiations on September 4, Mr. Sirmons: When you observed the IATSE representatives present, what occurred next in the negotiations?

A Well, they were introduced by Mr. Draghi. I think the two terms he used were "observers" and "participants."

JUDGE BENNETT: Well, what if any position did you take with respect to their presence.

THE WITNESS: I took a strong position that this was a change in a long, long history of bargaining practice with this union going back over 35 years or so, that the presence of

IATSE, recognizing the jurisdictional problems between the IBEW and the IATSE, was a particular kind of impediment to free discussion of issues, especially as they related to those areas.

I did ask what their position was with respect to those conflicting jurisdictional areas. I said that I felt very strongly the presence of the two IA people would create an inhibiting factor and be a barrier to effective bargaining, that it would always be in the minds of the participants, the IB and Company participants, in discussing issues that the IA was presence; that it might well restrict the free e.. .nge of ideas and information; that it might not be legal -- I reserved our legal right.

I expressed a personal feeling that it was unwise to introduce the IA people into this bargaining relationship because we had such a very difficult set of issues in front of us, and that this could only slow down the pace of the negotiations.

JUDGE BENNETT: What happened next?

THE WITNESS: Well, next I said that while we had serious doubts as to the wisdeom of bargaining with them present, we did recognize that the IA had contracts with us; we did recognize that they had people who are employees for whom they are responsible; we did recognize that they had a community of relationship or interest with us in respect to those people,

for the benefit of those people; and that, you know, with all the reservations I had made before we were going to proceed with them present.

JUDGE BENNETT: And you did.

THE WITNESS: We did.

Q (By Mr. Bakaly) You continued, then, to negotiate on the 4th of September.

A Yes, we did.

Q And did negotiations continue on the 5th of September?

A Yes, they did.

JUDGE BENNETT: The same two --

THE WITNESS: Yes, they were present.

Q (By Mr. Bakaly) Now, on the 8th of September were there negotiations?

A Yes, there were.

Q Were there any additional people present at the negotiations on the 8th of September?

A Yes, there were two additional people: there was an assistant to the business manager of Local 1212 present, IBEW Local 1212, sort-of described as an observer or visitor more than anything else.

Q This was Shery Wolfe?

A Shery Wolfe. And the representative of NABET was introduced to us, James Nolan, at that time. He was introduced as a member of the bargaining committee.

Q Now, what if anything did you say in response to the introduction of Mr. Nolan?

A Well, I made some of the same observations as I had made with respect to the IA, but I went considerably beyond that. I pointed out that the vital interests of NABET was in representing the NBC-ABC employees, that there was no community of interest, that there was no precise background of knowledge of our contracts or our relationship or our problems, that I could not understand why they would be there, why the Union would want to introduce such a serious impediment to bargaining.

I expressed the view. or the grave doubt, that it might not be possible to bargain fully for many of the issues, recognizing that the most complex and most difficult issues were found in the Company proposals, and some of those proposals we felt that we were compelled to get into the kinds of business plans and confidential information which we would not like to present in front of representatives of our competition.

JUDGE BENNETT: These are the types of equipment you described yesterday?

THE WITNESS: Well, the equipment, but principally the plans, the business plans for their use. Much of that equipment is available to others.

MR. BAKALY: We will be able to tell exactly what that is,

Your Honor, as we go through.

Q (By Mr. Bakaly) Right now I want to know what was said in the negotiations.

A Well, that was what was said; and it took a considerable amount of time and there was a considerable amount of exchange there.

We wound up that meeting by reserving whether we wanted to proceed with NABET present, for the reasons we stated.

Q Were there meetings subsequent to the 8th of September?

A Yes, there were.

Q And when was the next?

A There was a meeting on the 9th.

Q Who was present?

A The same group from each side.

Q What if anything was said by you and what was said by representatives of the Union on the 9th?

A On the 9th we had filed prior to the meeting an unfair labor practice charge against the Union earlier that day, so that on the 9th we were meeting rather late in the day. The meeting really was informative with respect to the action taken by the Company, and the Union questioned the good faith and whether or not they had been adequately informed and whether they had been misled, and the "deviousness" accusation that they had made throughout their presentation that day.

JUDGE BENNETT: You were attacking the presence of NABET?

THE WITNESS: Yes, sir.

MR. BAKALY: If Your Honor desires we can introduce that charge. I can represent that it was dismissed, and the appeal of the General Counsel was denied.

JUDGE BENNETT: I think the record is sufficient.

MR. DAVIS: Perhaps, Your Honor, we should give you the number, at least, so that if you or the Board wishes to take notice of it you may.

MR. SUNNESS: I believe it is referred to in the Formal Papers in the protective order motion. That is in the Formal Papers.

JUDGE BENNETT: Very well.

Q (By Mr. Bakaly) At the meeting on September 9 was Shery Wolfe present?

A I am not one-hundred percent sure, but I believe she was not.

Q Did she attend any other meetings after the 9th?

A To the best of my knowledge she did not.

Q Now, did meetings continue between the 9th of September and the 30th?

A Yes, sir.

Q Had there been any previously arranged days or periods on which meetings would not occur?

A Yes, we had agreed not to meet the first weekend we were out there, and we had agreed not to meet from the 12th through

the 15th, as a Yom Kippur break, and we did follow that schedule.

Q Bringing your attention to that period from the 9th of September to the 19th, to cut through and get along here, could you tell us the essence of the positions, what was said by the Company and what was said by the Union with respect to negotiations?

A Yes. During the period from, really, the very beginning, when it was clear we were faced with this kind of a problem, there were a number of what I shall characterize as side bar conversations designed to explore ways and means of getting around what we thought at that time was a procedural block. I guess at that point, speaking for the Company, we felt the blockage would be removed after the point was made. It was only later that we realized it was going to remain.

In any event, we were talking about ways to get something done, to get some bargaining done, first to preserve the legal positions of the parties and still proceed. And that question was raised among the lawyers very early in that period.

Our attorney was in touch with the attorney for the international union in Washington, and I also was in touch with representatives of the international in Washington, because it was clear to us that the invitations to these two unions had been issued by the international union and not by the locals.

So, the question of trying to arrange for some legal way that positions could be preserved and negotiations could proceed was one that was being explored for quite a long period of time; as a matter of fact, I would say from perhaps the 4th or so all the way through the 23rd, which I believe was about the last time it was referred to.

In addition to that, we were in side bar, discussing maybe other more practical ways of going, pending a resolution of this legal question, none of which worked too well.

I remember talking to Mr. Draghi about possibly proceeding in side bar with small committees. Later on I think he made reference in his testimony -- and it is certainly true --that we talked about forming committees outside of the formal bargaining for the purpose of exchanging information; and in that case it dealt specifically with benefit information, for we had planned to have with us for a day or so our director of benefits.

So, we wanted to have him come out and we wanted to be able to give that information, which was a lot of things that needed to ba said, to the Union, and we wanted some way of doing it.

As you heard from Mr. Draghi's testimony, he felt that that kind of thing was part of bargaining and could not be presented in a small committee without NABET present.

So, none of these approaches worked.

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Prior reference has been made to a suggestion that I made, that perhaps we should reconstitute the negotiating committees as a quarterly consultation instead of suspending negotiations during that period, and that didn't work either. It was not a very formal proposal, and I realize this was a difficult thing to do.

But, there were continual, continuing conversations, both across the table and in side bar during this entire period.

Q Now, on the 16th of September do you recall a discussion in which the Union proposed a pledge of confiedntiality?

A Yes, I do.

Q Would you tell us what was said in that regard by the Company and what was said by the Union, as best you can recall.

A I can't recall word for word, but the Union asked us if we would accept a pledge of confidentialtiy with respect to the confidential business plans and technical data that we felt we had to divulge; and the discussion, which I guess took the better part of an hour, centered on what kind of guarantee would we have, what would the remedy be in the event of a breach, and how could we possibly recognize that the NABET representatives, whose vital interests were in the well-being of their employees, namely the employees of our competitors -- how could we possibly recognize that any kind of a pledge could be backed up in a realistic way.

We tried to explore just what they had in mind in the way

of a guarantee, what kind of a remedy, what kind of a bond were they talking about.

They were never willing to put any meat on the bones and, over a period we referred to what we thought would be irreparable injury to us if this information were revealed, and we wanted to know how they were going to protect us.

This just got nowhere, because we could not get any specific information to deal with that suggestion.

Q During this meeting of the 16th, or during this period from the 9th to eht 30th of September, did the Union propose that NABET representatives be present during discussion of Union demands and excluded and not be present during discussions of the Company's proposals?

A No, they did not. At one point we misunderstood and thought they were suggesting that.

Q Tell us about that as best you can recall, when that occurred and exactly what was said.

A I can't put an exact date to it, but it was either the 16th or the 19th. Mr. Draghi asked the question, what we thought was the question, "Would you be willing to continue on the basis of NABET being present during the discussion of the Union proposals and not being present during discussion of the Company proposals?"

I repeated the statement to him because I was a little incredulous; I had been told up to that time that NABET had to

be present during discussion of all proposals.

Then he said no, he didn't mean that; he really meant that NABET would be present during discussion of the Union proposals, and the question of NABET's right to be present during the Company proposals would be resolved by legal means.

We discussed how long might it take for the resolution of that question. Meantime we might have discussed a part of the problems before us, and in spite of their importance the smaller part of the problems before us, while not dealing at all with the more difficult issues.

I replied that this was simply not a feasable, practical way to go, because bargaining had to be looked upon in its totality as a give and take kind of proposition, and there was no way that we could see to deal with the at least as important Company issues, that is, the Union issues without dealing with the Company issues in the kind of good-faith bargaining that it represents, which is a quid pro quo give and take sort of thing.

JUDGE BENNETT: Let us have another question.

Q Was there any other discussion at that time, Mr. Sirmons, about the negotiations that concluded, or is that all you want to say about that?

A Nothing that was really meaningful.

Q Now, on the 19th of September was a Mr. Lynch present in place of Mr. Nolan or in lieu of Mr. Nolan?

A Mr. Lynch was introduced as the NABET representative on the committee. Mr. Nolan was not present.

Q Did Mr. Nolan ever return to the negotiations prior to the conclusion on the 30th of September?

A He did not. And by that date the IATSE representatives had also gone.

Q By the 19th?

A The 19th of September.

Q Do you recall when the IATSE representatives departed?

A I am not certain; I believe, during the period between the 16th and the 19th, I believe during that two days when the Board agent was present and the parties were involved with the Board agent and we had no meetings during those two days.

I believe it was during that period when the IATSE representatives left.

Q Now, I take it on the 30th of September the parties departed from San Diego and went to their respective places of business.

A That is correct.

Q Now, Mr. Sirmons, would you -- subsequent to the 30th of September, in January and February of 1976, did negotiations resume?

A That is correct.

Q And where did those negotiations take place?

A From the 6th of January to the 21st of January, in Santa

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Barbara.

Q And were there then subsequent negotiations in February?

A And from the 28th of January to the 4th of February in San Diego.

Q And does that describe the negotiations that have occurred to date?

A Those are the dates we have met up until the present.

Q Now, commencing in January, who was present for these negotiations?

A The IBEW committee, without either NABSE or the IATSE, augmented at a later date in January by the addition of certain representatives of the IBEW from the various locals; but the nucleus was the same, less the IATSE and NABET people.

Q Representatives of NABET and the IATSE were not present during the negotiations of January and February of 1976.

A That is correct.

Q Now, as briefly and quickly as possible, Mr. Sirmons, could you tell us the proposals that the Company intended to make in September and did make in January and February, and in general terms the confidential business information and trade secrets that it disclosed to the Union in January and February and which it intended to disclose in September.

MR. DAVIS: I will object to that, Your Honor, on the grounds it seems to obviate the stipulation which is General Counsel's 2.

MR. BAKALY: One of the reasons I am asking the question, Your Honor indicated he wanted to hear this evidence, and of course it is relevant material, in general terms. It doesn't obviate the stipulation at all.

What the stipulation does is obviate the need for a protective order. He is not going to go into the detail that he would if we -- and disclose the precise nature of the confidentiality -- he is in general terms describe, so that the examiner can conclude, as we know it will establish, that this matter was far-reaching and permeated the entire negotiations.

JUDGE BENNETT: Isn't the thrust of the Complaint directed to the alleged failure to bargain when NABET was present?

MR. BAKALY: That is correct.

JUDGE BENNETT: And we have had testimony yesterday from the witness as to the nature of the material plans.

MR. BAKALY: That may well be, but we also have testimony from the Union as to these negotiations in January. They opened this up. We are certainly entitled, if they talk about negotiations, we are certainly entitled to talk about the negotiations in January.

JUDGE BENNETT: I am not aware that the General Counsel was attacking January.

MR. DAVIS: Not only that, Your Honor, but I don't recall

any testimony as to substantive proposals made, described even in general terms. I don't even think Mr. Draghi mentioned if he asked for wage increases.

MR. BAKALY: He was asked about negotiations, and that certainly opens it up.

He is entitled to testify.

JUDGE BENNETT: I realize the witness may have testified about that, but the General Counsel is not accusing Respondent of anything in this area. You are being accused, if I read the Complaint correctly, of a refusal to bargain when NABET representatives were present.

MR. BAKALY: Well, that is correct —

JUDGE BENNETT: Is that a correct statement?

MR. SUNNESS: Yes.

MR. BAKALY: Well, our defense, Your Honor, as I explained yesterday, is that we were unable to proceed to bargain because of the presence of NABET, because we were unable to disclose confidential business information while NABET was present, which information was essential to explain the reasons for our proposals, and thta this made it impossible to have any meaningful negotiations.

Now, I don't think the record is complete on that, and I think we are entitled to establish what those proposals were so you can see how significant they were, what the confidential business information was in general terms, wo you

can see that this problem permeated the entire negotiations and made it impossible to proceed on anything.

JUDGE BENNETT: There has been no attack that I am aware of, at least ont as yet, upon his testimony as to the CBS plans and equipment and things of that sort.

MR. DAVIS: We have stipulated that.

MR. BAKALY: I don't think it is in in nearly the detail that would enable you to conclude that this was a completely limiting factor that prohibited us from bargaining.

You see, I am afraid the contention is going to be made, and maybe if General Counsel will make this contention I will sit down --

JUDGE BENNETT: I think GC 2, the stipulation, is rather broad in its scope.

MR. ASHE: May I just say this while Mr. Bakaly is looking at this again:

Mr. Bakaly said that General Counsel opened the door with regard to the January sessions. All that Mr. Draghi testified to was that they did meet and that they met without MABET being present, that negotiations were carried on.

Nothing was said as to the nature of those negotiations.

MR. BAKALY: That opens it up.

MR. ASHE: No, it doesn't, no, it doesn't, not to go into that detail.

JUDGE BENNETT: I am inclined to agree with the General

Counsel and the Charging Parties in this area, particularly in view of the stipulation, and particularly when the General Counsel concedes that Respondent is not being accused of anything after NABET was off the scene. And I believe the testimony was broad enough yesterday to cover the area you want to get into.

He testified yesterday as to what he wanted to get into, and allegedly was unable to because of the presence of NABET.

MR. BAKALY: He testified very, very generally, and I think the response to the question was regarding "what proposals are you considering making at the commencement of the negotiations." He did not testify as to what was made, what proposals were said, and he did not testify in detail as to the nature of the confidential business practices.

What I am concerned about, Your Honor, is that we are going to be met with an argument that we should have proceeded to bargain before we stopped bargaining. And what we want to show, what we offer to show, is that we could not have meaningful bargaining because of this impediment, and the Company proposals in the way the bargaining was were such that they could not do that.

That is what we want to prove, and I think we ought to be able to do that.

JUDGE BENNETT: The stipulation says that the new equipment and processes come within the category of trade

secrets and would give the Company a competitive advantage over other broadcasters.

MR. BAKALY: But it does not talk about the magnitude. Of course they would not stipulate, as I asked yesterday for a stipulation that these proposals of the Company permeated the entire negotiation, made it impossible for the Company to negotiate.

That is what we need to prove.

MR. SUNNESS: Why would we have to go into any type of testimony as to the nature of the confidential information itself. I think what would be more critical would be, maybe, what provisions of the contract might be affected by that.

MR. BAKALY: Well, I really thought Your Honor asked for that in more detail. The two really go together.

You remember, I said we were going to get to that. I thought you asked a question about this.

JUDGE BENNETT: I did.

MR. BAKALY: That you wanted more information about these proposals.

JUDGE BENNETT: How briefly --

MR. BAKALY: I think this can be done in 15 minutes. That is all we are talking about.

JUDGE BENNETT: Then I don't want to get into a counter-litigation as to the technical areas.

MR. BAKALY: We will do it in very general terms.

JUDGE BENNETT: All right; I will take it.

MR. DAVIS: I want it understood that in no way do I consider myself bound by any pledge of secrecy on this information; and if that is moved at any point in these proceedings then we are going to have a problem.

JUDGE BENNETT: That is the problem that Respondent is confronting, and it has occurred to me.

MR. BAKALY: We are prepared to take the chance with this testimony.

MR. SUNNESS: Now, I don't have any real problems with something Counsel is going to show as to what the overall nature of the Company's contract -- I don't have any problem if the Respondent wants to indicate, let us say, what overall provisions of the existing contract they would intend to modify as affected by the confidential information.

I think we do run into a real danger in getting into any of the details, or any testimony as to the nature of the specific devices or operational practices that would be covered by the trade secret thing.

I would have to agree with the representative for Charging Party Local 45 that General Counsel at this point couldn't be bound by any type of protective order.

MR. BAKALY: There is no protective order at this time. I appreciate the concern of General Counsel about business secrets, and this witness is very knowledgable in this area

and he is not going to disclose confidential business secrets; and I am going to object if, on cross examination, there are any questions that get into that.

So, I do not think that is going to be a problem.

JUDGE BENNETT: I am inclined to sustain the objection and you may make an offer of proof if you see it fit or wise to do so. I am not suggesting that you do make an offer of proof.

MR. BAKALY: Well, obviously I would have to make an offer of proof if you are going to sustain the objection.

JUDGE BENNETT: I am going to sustain it.

Q (By Mr. Bakaly) Directing your attention to the period September 3 to September 30, Mr. Sirmons, would you tell us the proposals that the Company intended to make in the general terms of the confidential informaition that the Company was prepared to divulge in support of its proposals to the Union during negotiations in September, 1975.

MR. SUNNESS: My understanding is that this is coming in in the nature of —

MR. ASHS: He is asking the question in order to get our objection.

JUDGE BENNETT: Well, I sustained the objection.

MR. ASHE: I object to that.

JUDGE BENNETT: I think if you know what you want to get to, wouldn't it be more desirable to make an offer of proof in a narrative form?

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MR. BAKALY: You mean, I am being foreclosed now from saying what the Company intended to produce in the negotiations in September?

JUDGE BENNETT: I think it is already sufficient in the record to give the general nature of it, and I sustain the objection.

MR. BAKALY: I thought the basis of your sustaining the objection, Your Honor, was that it related to matters after the period.

We are charged with bargaining in bad faith during the period September, 1975.

JUDGE BENNETT: Do you want to limit this to September 30?

MR. BAKALY: Right, what we intended to do during the period in which we were charged with bargaining in bad faith.

JUDGE BENNETT: All right, I will take that. You are not getting into January.

MR. BAKALY: Right. I will make an offer of proof on that. But I just want you to know what we intended to do, and were prohibited from doing by the presence of NABET; and we are entitled to.

JUDGE BENNETT: I may be wrong, but I think there is enough on the record from yesterday to get to the point, but I will permit you to continue.

MR. BAKALY: Thank you.

JUDGE BENNETT: I presume you can cover this very briefly.

MR. BAKALY: Yes.

Q (By Mr. Bakaly) Do you understand the question, Mr. Simmons?

A Would you repeat it.

Q I will rephrase the question.

Would you tell us the proposals that the company intended to make in September, 1975, and the information which, in general terms, the Company intended to divulge to the Union, but was prohibited from doing so by the presence of NABET in negotiations in September, 1975?

MR. DAVIS: I will object to the form of the question. I don't like "prohibited."

MR. SUNNESS: May we go off the record? I wish to talk about this.

JUDGE BENNETT: Off the record.

(Discussion off the record.)

JUDGE BENNETT: On the record.

We have explored a way out of this during an off the record discussion, and I will permit Respondent to get into this area prior to the January negotiations.

MR. BAKALY: Thank you, Your Honor.

Q (By Mr. Bakaly) Do you understand the question, Mr. Sirmons, or would you like me to rephrase it?

MR. DAVIS: I believe just before going off the record, Your Honor, I asked that he rephrase it since it is argumentative.

JUDGE BENNETT: One part of it that should have been rephrased, about the exclusing of NABET.

MR. BAKALY: Well, let me try to rephrase it.

Q (By Mr. Bakaly) Mr. Sirmons, directing your attention to the period September, 1975, would you tell us the proposals that the Company intended to make and, in general terms, the confidential and business secrets that the Company intended to disclose, to the Union in support of its proposals which, in the Company's mind, it was prevented from doing by the presence of NABET.

JUDGE BENNETT: I think you can state this without too much detail by merely listing these things.

A I would like to answer in the same two-category way that we discussed yesterday, that is, the production technology and the news technology.

Q Fine.

A In the production technology area, the new advances in the character generator area, which involved the introduction of new input devices such as the camera, required the Company to propose changes in order to accommodate the artist in being able to use this device, and a redefinition of the kinds of input devices that could be used by a non-technician.

Also, the clarification of the recall of the information so that the artist could work on the material, and the clarification of how the material he was working on could get into a storage system.

With respect to the freehand device which we are calling an electronic palette: we planned to reveal through the means of a videotape a highly secret device, so secret that our own committee didn't know about it except for two or three key people, where the information was so restricted that we really had to have a pledge of secrecy.

This device would open up for the artist a means of doing art work way beyond anything that was possible or is possible now.

This required that the contract be changed so that the kinds of input devices associated with this equipment could be used by the artist and not the technician.

JUDGE BENNETT: You are saying that your competitors do not have access to this?

THE WITNESS: No, sir, did not know about it, did not have access to it.

The third device that gave rise to proposed changes was of the digital storage type, which we call a "still-store device." There was some knowledge of this device in the industry prior to the negotiations in September.

What was not known by the industry, since we were the co-

developers of this device and had first rights of use, what was not known and what we were prepared to reveal in order to get changes in the contract, was how this device would be tied in, would be used and would be tied in with the other devices that I have just described, and how others would be able to gain entry into information stored in that device, which was to replace the stills and slides that are commonly used in the networks by the hundreds and thousands, and at the various stations in the same way.

This required rather substantial changes and exceptions to the broad electronic jurisdiction of the contract.

A large part of the secret plan, that is the confidential business information relating to those three types of devices, had to do with our plans for an amalgamated, coordinated, kind of interrelationship, a system that used all three, or one, or two. This we considered to be highly confidential, which would give us a better look on the air, a quicker, easier, more efficient way of performing these functions, and the elimination of certain steps.

The other area, of news, had to do with, on the technology side of it, had to do with the availability of a much smaller camera, whcih was partially known in the industry in September through reference to it in various trade journals, a much smaller camera which enabled the Company to advance or accelerate its business plans for conversion from

film to all-electronic.

However, we realized in our study we had to make other changes in the agreement to accomplish this. The changes in the agreement had to do with putting in a free-lance category so that once the capability of going to film as an alternative was removed, that is, you get deeply into electronics so that you don't have the alternative way of doing it, you have to have full nationwide, even worldwide, coverage; and this would require the ability to hire people on a different basis.

This was certainly one area of proposal.

Q (By Mr. Bakaly) You mean, you were proposing to have free-lance within a two-hundred mile radius of each station?

A Yes, but in a free-lance category of employment, something new to this contract, but something well-established for many years in the film side.

We were to propose, and had planned to propose in September, the establishing of an overseas rate in order to both make it feasable to send these technicians to overseas locations, and we had planned to reveal fully our plans for reconstructing certain of our owned-and-operated television stations in order to accommodate the new electronic journalism, electronic news gathering, and in that connection we planned to describe and reveal more fully our confidential plans for the use of a preliminary decision-editing device, electronic device, which would enable the editor or writer to

perform certain of the preliminary decisions using this technology.

The secret part of all this, which we felt we had to reveal, was how this was going to impact on our future conversation plans; and in that connection we were prepared to give detailed information about the employment of IBEW people as we converted to electronic, giveing each step of the way not only the equipment, but the manpower.

We also planned to reveal our precise plans for using this technology in the political conventions of 1976 and the elections of '76, revealing as well the advantage that that would bring to us in audience, and that this lead time would assure overall the Company's leadership inelectronic news-gathering.

Q You have mentioned just briefly yesterday two other proposals.

Would you describe those a little more fully: the meal period proposals and schedule proposals.

MR. DAVIS: Excuse me, Your Honor: the proposals, I am not sure, is the subject matter we are talking about. Are we talking about iln general terms the trade secrets? I am not sure that meal proposals result from that.

MR. BAKALY: It is both, Your Honor. The question is very clear that it relates to both.

JUDGE BENNETT: I will take it.

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THE WITNESS: We did propose changes in the meal period as it related to electronic news-gathering. This of course was designed to make it possible to expand in this area.

The proposals there were a different approach to removing the restrictions on violating meal periods, which we had negotiated in '72. It was simply to make some changes to remove some of the cost of that, but to keep the flexibility in, but remove some of the cost.

As to the scheduling changes: again, it was the ability to expand, to enable us to be able to talk to technicians involved in electronic news-gathering on their days off with respect to their schedules for the workday following, which is now proscribed by the contract.

Q (By Mr. Bakaly) Now, Mr. Sirmons, in January and February, 1976, did the Company make proposals and give the reasons therefore, that you intended to do in 1975?

MR. DAVIS: I am not sure I like the form of that question, Your Honor. I will object to it.

JUDGE BENNETT: Do you understand the question?

THE WITNESS: Yes.

JUDGE BENNETT: I will take it.

THE WITNESS: Yes, we did.

Q (By Mr. Bakaly) And would you tell us approximately the percentage of negotiating days which the Company proposals took.

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MR. SUNNESS: I am going to object to that.

JUDGE BENNETT: I will sustain that.

MR. BAKALY: We will offer to prove that during the negotiations in January and February of 1976, on at least 75 percent of the negotiating days, Company proposals just described by Mr. Sirmons and concerned with giving confidential business information were discussed in the negotiations.

JUDGE BENNETT: I will reaffirm my ruling.

Q (By Mr. Bakaly) Why, Mr. Sirmons, in September, 1975, couldn't the Company negotiate on a partial basis, so to speak, negotiate on the Union demands, with NABET being present?

A If I may, I would like to say that we spent most of our caucus time in this period trying to see if there was some way.

JUDGE BENNETT: And you concluded there was not?

THE WITNESS: We concluded there was not, because we felt that the Company proposals so completely permeated the entire issue of bargaining in its totality that there was no way to carve out a portion of it in the traditional bargaining context, and expect to accomplish anything without seriously prejudicing the major proposals of the Company.

MR. BAKALY: No further questions.

JUDGE BENNETT: Let us take a five-minute recess.

(A short recess was taken.)

JUDGE BENNETT: On the record.

MR. BAKALY: Your Honor, in thinking about the offer of proof, I may not have been exactly clear.

What I intended to offer to prove was that during the negotiations in January and February, the Company on at least 75 percent of the negotiating days discussed all of the proposals and all of the reasons that they intended to discuss in 1975.

I might have created the impression that they only discussed 75 percent of the information. But on 75 percent of the negotiating days, that all or part of the reasons were given.

JUDGE BENNETT: You want to show that you were prepared to apply a single standard of conduct during both periods, in essence?

MR. BAKALY: Well, that is right; and really, we are offering to prove that the amount of discussions about their proposals so permeated the negotiations that it was impossible to separate the Company proposals and the confidential reasons from the total negotiations.

JUDGE BENNETT: Is that an accurate statement?

THE WITNESS: Yes, sir.

JUDGE BENNETT: All right. I will treat that as an answer.

MR. BAKALY: Thank you.

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MR. DAVIS: Your Honor, I would object to that on the additional grounds that this case was pending and this matter was known and the hearing set at the time those negotiations took place, and that Mr. Bakaly and Company are far too intelligent lawyers to not have seen that this would be an obvious ploy to use in this matter, and therefore it is unreliable testimony because it could have been created simply for the purpose of effective testimony in this hearing.

JUDGE BENNETT: If the Company refused -- and I was speaking about this over the last recess -- to discuss "sensitive" matter in January and February, I can see where an inference adverse to Respondent might be argued therefrom; and I am not passing on the merits. But on that posture I will permit it to stand.

MR. DAVIS: I trust the record will note my exception.

JUDGE BENNETT: Certainly in an adverse ruling you have an automatic exception.

MR. BAKALY: No further questions of Mr. Sirmons.

JUDGE BENNETT: I guess it is General Counsel's turn.

CROSS EXAMINATION

Q (By Mr. Sunness) Mr. Sirmons, was the objection of CBS to NABET's presence in the contract negotiations in September, 1975, limited to just the disclosure -- the unwillingness to disclose confidential information to NABET since it represented employees of competing broadcasting systems?

A Well, that was certainly the compelling reason why we objected. We objected on much broader grounds than that, but when you get down to whether negotiations are going to be possible on any kind of a practical basis, you really come down to that.

But, we raised much broader objections than that and did not face that question in that way.

Q Well, I want to rule out that CBS was not objecting to NABET because of any attempts on the part of the IBEW to make NABET a party to the contract, for example.

A Well, none of that was implied in anything that was said to us, that that was in anybody's mind. As a matter of fact, part of our problem was that we could not get to the bottom of why NABET was there. We repeatedly asked and could not get an answer to why NABET was present.

Q What I meant in "getting to the bottom" of why CBS objected to NABET's presence in the meeting was, what was the main objection CBS had to NABET's representatives being involved in these negotiations?

A We objected to their presence for all the reasons I gave before. We felt that the compelling reason, that is, the one that rested on the most solid legal base, and to us the most important one, was the inability to negotiate in the critical area of Company proposals where we couldn't hope to negotiate fully without revealing fully the confidential information.

Q Now, during the 1972 contract negotiations was there sort of an understanding or agreement reached with the IBEW that if CBS gave the Union certain information that was labeled "confidential" that the Union would not disclose that information?

A That was certainly my understanding.

Q But there was no written agreement to that effect.

A No, sir.

Q And did this understanding -- was the nature of this understanding, first of all, that CBS representatives would, let us say, give the confidential information to the Union representatives, and if the Union representatives agreed that the information was confidential, that the information would be kept confidential?

A Well, at kind-of hindsight we didn't deliniate that; we were trying something new, and we both, I think -- certainly the Company felt that it was worth going all the way, that is, bringing the Union into the Company's confidence with respect to business plans.

This is partially expressed in side-letter No. 4.

Q This is side-letter No. 4 --

A To the '72 agreement, that we would try to keep them up to date. It is not a perfect expression, but I think the essence of the idea is in there.

In any event, it was clear that we were under an

obligation to try to do that. We decided to further, really, than the obligation in writing, and I believe that was the understanding that we both had of that obligation.

Q But were there any hard-and-fast rules spelled out as to just how CBS would give the information to the Union and then what the Union was to do with that information afterwards?

A No, sir. We relied on them to honor the confidence and to use the information for their own internal purposes and knowledge and not reveal it; and as professionsals we felt we could. We had a good relationship over the years, and we felt confident in that, and our confidence has been borne out.

Q Did Union representatives xpress any -- Strike that.

Did the union representatives tell you they would have to have some freedom in deciding how much of this information to disclose so that they could, let us say, explain the contract proposals to the membership for the membership ratification?

A You are referring now to the '72 agreement?

Q Yes.

A I don't believe that was spelled out quite that way. I really was referring to the continuing dialogue in the quarterly consultations and how that developed.

Q Well, let us get to the '72 contract negotiations.

Did the Union express any interest in having a freedom to determine how much of the confidential information should be disclosed for purposes, let us say, of carrying out its union

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function?

JUDGE BENNETT: Disclose to whom?

Q Let us say, as an example, if the Company were to disclose some information that the Union -- let us say if the Company were to disclose some information that it requested be kept confidential and then the Union -- did the Union representatives say, "We have to be able to give some of this information to our members so they can understand why they should ratify the contract"?

A I can't be absolutely sure, but I believe the thought was expressed during the '72 negotiations that certain information that should be tightly held might have to be revealed to members. We just relied on the fact that they were professionals and they would be circumspect in what they said.

But I do think they said that, yes.

Q Did the Union representatives also say that, "We will decide whether or not this information is really confidential after you tell us what it is"?

A Again, in '72?

Q Yes.

A I don't recall that statement being made.

Q Was there an understanding reached between CBS and the Unions during the 1972 negotiations that if the Company merely labeled any information confidential, the Union would automatically agree that that information would not be

disclosed to anyone outside the negotiation -- outside of the presence of the negotiating committee?

JUDGE BENNETT: One question occurs to me: that if this confidential information in certain areas affected certain employees, wouldn't they perforce learn it, the employees affected by the language?

MR. SUNNESS: I think this is one of the things that I want to explore, that the Union did maintain a certain degree of discretion here in being able to explain to its members some of this information so that they could get the members to go along, say, with some of the changes that CBS might want to make in interpretations of employment.

JUDGE BENNETT: All right.

MR. SUNNESS: I sort-of want to get the nature of the understanding between the Union and the Employer in the handling of confidential information before the '75 contract negotiations started.

JUDGE BENNETT: All right.

THE WITNESS: I think what you said is largely true, and was our understanding: that certain information may have to be revealed.

We were hoping that only as little of the business plans, the confidential business plans, as distinguished from the pure technology in changes in contract that would impact, as well as the impact on individuals -- that the business plans,

the confidential part of it, would be very tightly held; and I think it was.

Q (By Mr. Sunness) But you were relying mainly on the Union and their being professionals as far as the actual --

A Right.

Q And was this understanding with regard to handling of confidential information also more or less in effect during the quarterly meetings that were held after the '72 contracts?

A Yes, very much so.

Q And I think you said that in both the 1972 contract negotiations and the quarterly meetings there were never any problems with regard to the Union keeping this information confidential.

A No problem.

Q When the first September, 1975, meeting --the first of these meetings in which NABET representatives were present was held, Mr. Draghi as a spokesman for the Union indicated that Mr. Nolan would be present as a member of the negotiating committee of the Union; is that correct?

A Yes.

Q During one of these meetings in mid-September -- I believe you indicated it might be the September 16 meeting, though you were not certain -- there was discussion of a Union proposal of confidentiality.

A A pledge of confidentiality, yes.

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Q And it was Mr. Draghi who made the proposal that the members of the Union negotiating committee be bound by the pledge of confidentiality.

A I am not absolutely clear on whether there was any importance placed in the -- and I don't know whether to call it an offer or not, but it was a "would you be interested, would you accept" pledge of confidentiality -- but I am not sure whether it was on the basis of a pledge from the unit or each individual on the committee. My memory is not too clear on that.

Q Did the Union indicate that the pledge of confidentiality would be binding on everyone on the committee?

A I think so, yes.

Q And you asked Mr. Draghi how this would be enforced; is that right?

A Yes.

Q What the remedies would be.

A Yes; he wanted a committment that it was a way to go that would, perhaps, solve our problem, before revealing the full idea to us.

Q Didn't he say something to the effect of "Why don't we agree on the concept of a pledge of confidentiality first, and then work out the details later?"

A Something like that, yes.

Q And didn't he ask you what CBS would want with regard to

enforcing this pledge of confidentiality?

A Yes, he did.

Q He asked you if the Employer would be interested in a written pledge of confidentiality from the various members of the negotiating committee.

A He may have; I don't recall the written pledge idea, but he may have asked that.

Q Did you say anything about the bond being posted by NABET?

A A bond was referred to as a "we don't know what you are talking about; are you talking about a bond, for example, and if so, what size of the bond. There would be such irreparable damage we don't know what size of a bond you could possibly agree to, but it is your proposal, Mr. Draghi; you tell us what you have in mind."

That was the idea of that.

Q But the Union representative didn't rule out any of the proposals or suggestions that you had made, such as the possibility of a bond.

A No, as I recall they didn't rule that out.

Q But you did reject the proposal of a confidentiality pledge during this meeting.

A I don't know whether you could say we rejected the concept; we couldn't very well reject a proposal that was only partially given. We really didn't know what they were saying

and we didn't know what kind of binding assurance we could have from the NABET representative, whose vital interst was different, and we kept trying to get that pinned down.

We never succeeded.

Q Well, how did this discussion of pledge of confidentiality end?

A It ended without our receiving a full proposal. We simploy could not get from them a full proposal, what they were proposing.

Q Did you say to the Union representatives that CBS could not accept a pledge of confidentiality?

A We said we could not accept what they had said to us without knowing fully what the proposal was. We did not turn it down, except to say we can't really explore this and really indicate an interest without knowing what you are saying. You have got to put some meat on the bones.

Q At the end of that particular meeting at which the idea of a confidentiality pledge was first brought up, at least there was no agreement on the part of CBS at the end of that meeting, to buy the concept of a confidentiality pledge.

A We did not buy what we considered to be a partial, ill-formed concept. It was just an idea.

Q Did you ever try to explore the confidentiality pledge concept further with the Union representatives again, subsequent to the meetings?

A No, I di d not. I did not, because I did not think it offered very much in the way of a realistic chance without something so substantial that no one would say that that would not be satisfactory (sic).

Q Did the Union representatives during this meeting in which a confidentiality pledge was brought up, did the Union representatives say anything to the effect that this type of pledge had worked during the quarterly meetings, so why can't we use it now during the negotiations?

A I think the Union members of the committee, Mr. Draghi, alluded to the success of obtaining confidentiality in the quarterlies, yes, I think that was so.

Q And you agreed with him that it had been kept and honored.

A It had been.

JUDGE BENNETT: Off the record.

(Discussion off the record.)

JUDGE BENNETT: Back on the record.

Q (By Mr. Sunness) Now, was it during this same meeting that Mr. Draghi asked you if CBS could consider or discuss the Union's contract proposals pending a resolution of the issue involving NABET?

A My memory is that it was toward the end of that same meeting that he raised that question.

Q And you rejected this proposal; is that right?

A Yes, we rejected it for the reasons we had recited many times before that.

That you couldn't really separate the Union's proposals from the Company's; is that right?

A That it was one negotiation requiring give and take, where the Company's proposals so completely permeated the whole problem that it was both not feasable and not practicable to attempt to negotiate a piece.

Q The confidential information -- Strike that.

There were certain changes in operations that CBS envisioned coming about because of technological advances that required changes as the Company saw it in the present, or 1972, contract.

A Yes.

Q And CBS felt that these technological advancements would require changes that permeated the Employer's -- well, could you be more specific with regard to what you mean by "permeate the contract"?

A I was referring to the '75 negotiations, and what I was saying was that the Company proposals in the '75 negotiations so permeated the entire negotiation that you couldn't really separate out Company proposals from Union proposals and say that you were truly bargaining in good faith. The Company proposals really were as least as important, more complex, and in any event so completely permeating every issue, that it was

impossible to separate them out.

Q Did the confidential information -- was that related to every change that the Employer wanted to make in the contract?

A No.

Q In other words, the Employer was proposing changes in the collective bargaining agreement that had nothing to do with confidential information.

A That is correct, yes.

Q Was CBS proposing changes, for example, in the no-strike clause of the contract?

A Yes, the picket line clause, yes.

Q And those changes had nothing to do with the use of confidential information, did they?

A No.

Q Wasn't CBS also proposing changes in arbitration provisions of the 1972 contract?

A Yes.

Q And the arbitration changes proposed by CBS had no relationship with regard to release of confidential information.

A No.

Q Now, during the first negotiation meeting in July, 1975, the Union and CBS did exchange preliminary proposals for changes in the 1972 contract; is that right?

A Right.

MR. SUNNESS: Let me have marked as General Counsel's Exhibit 4 a four-page typed document entitled "IBEW - 1975 Proposals to Modify the IBEW-CBS Agreement."

(The document above-referred to was marked General Counsel Exhibit 4 for identification.)

Q (By Mr.Sunness) Mr. Sirmons, let me hand you what has been marked as General Counsel's Exhibit No. 4, and let me ask you if that was the preliminary proposal that the IBEW gave the Employer during the July 14, 1975 meeting at Ossining, New York.

A It appears to be, yes.

Q Now, directing yourattention to page (1) of General Counsel Exhibit 4, there are references to certain changes that the Union was going to propose in, say, work jurisdiction, territorial jurisdiction of the contract.

I take it that these proposals might possibly involve the discussion of confidential information on the part of CBS; is that right?

A These proposals by themselves might not, but these proposals could not be considered by themselves; they had to be considered in the light of the Company proposals, and some of those proposals in this area did involve confidential information.

Q Let us turn to page 2 of General Counsel Exhibit 4, item (8), where it states "Wages."

Now, the uNion's proposals with regard to wages were not involved in the release of any confidential information were they?

A By themselves, I doubt it; but certainly in connection with the kind of give and take that is involved in counterproposals or proposals by the Company, they might very well become imbedded in matters of confidentiality.

Q With regard to, let us say, certain individuals who have been involved in the news operations that would be affected?

A News and perhaps others, but certainly those in news and the categories of how it would work.

Q Isn't it true also there would be a number of individuals in job classifications represented by the IBEW covered by the '72 contract that would not be involved in the technological changes that involved the release of confidential information?

A I am sure that would be true, yes.

Q Then with regard to item (7) on page (2), "Travel Expenses": those particular proposals of the Union would not involve the release of confidential information.

A I don't believe they would.

Q And the overtime provisions on pages (2) and (3), item (9): those proposals of the Union would not involve discussion of confidential information.

A Probably not, but they might become involved in some of these special problems arising from Company proposals in the

ENG area that would be part of a total discussion of these subject areas.

Q But there would also be substantial discussion with regard to overtime that would not involve technological changes.

A I think that is so.

Q With regard to item (10) on page (3), "Vacations": that particular proposal of the Union would not really involve the release of confidential information on the part ot CBS.

A No.

JUDGE BENNETT: Didn't you say something about a problem of people being sent overseas?

THE WITNESS: Yes, sir.

JUDGE BENNETT: Would that involve travel expenses?

THE WITNESS: Well, we were looking at these proposals; he asked me about these proposals, and none of these proposals have anything to do with that. That is from our proposals.

Q (By Mr. Sunness) Let us say, with regard to people who could conceivably be covered by the overseas pay who would be involved in the Company's contract proposals --

A Yes.

Q That would involve a small number of people in the overall bargaining unit.

A I think --

Q Was that last answer yes?

A I am not sure that the answer is yes. I am still thinking about Judge Bennett's question, because I think I would have to say that substituting the Company's proposal on overseas for the domestic provisions of travel expenses and overtime and other things may very well involve the Union proposals on page (2), number (7).

So, I would have to go back and reserve on that answer.

Now, I am ready for your next question.

Q With regard to the travel expenses, the changes proposed by the Company involved overseas people, traveling overseas; is that right?

A The Company proposals?

Q Yes.

A Yes.

Q And the Company proposals with regard to overseas pay and that type of thing: those particular proposals of the Company would involve the use of confidential information?

A The support of those proposals would reveal -- would require that we reveal plans for overseas expansion of the ENG capability crews and equipment.

JUDGE BENNETT: ENG?

THE WITNESS: Electronic News Gathering.

That, we would consider to be confidential.

Q (By Mr. Sunness) But there would be a significant portion of the bargaining unit that would not be covered by

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the proposed changes.

A That is true.

MR. BAKALY: I don't object to the question, but I don't know what "significant portion" means, Your Honor.

JUDGE BENNETT: Rephrase it.

Q (By Mr. Sunness) A majority of the individuals in the bargaining unit covered by the 1972 agreement and by any proposed change in that would not be covered by the overseas portions as proposed by the Company.

A They would be covered but not affected by it, since they would rarely, if ever, be involved in an overseas assignment.

Q And would that part of the travel expense proposal of the Union that did not involve overseas operations -- there would be no need to release confidential information.

A I think that is true.

Q With regard to proposed changes, let us say -- Strike that.

There were proposals to change the pension plan and retirement benefits that were made by both the Union and the Employer in the course of the contract negotiations; is that right?

A Well, certainly by the Union.

Q And with regard to changes in the operations of the pension plan, that does not involve the release of any confidential information by CBS.

A Certainly not in the same way that we were dealing with confiedntial matters in the plans arising out of technology, but we did as a result of the Union proposals have to get into some of the studies that were under way at the time with respect to changing pension benefits and things of that sort.

Q But would the --

A I would not have been happey to have that known generally, although it is hard to characterize that as confidential in a bargaining context.

Q The information with regard to the pension plan: this was one of the areas in which CBS proposed that information be exchanged in committees; is that right?

A Yes, this is certainly one. There were a number of areas.

Q This was one of them.

A Right.

Q And was there any discussion as to NABET involvement in these committees in which informaiton was to be exchanged?

A Well, the purpose of the committee was to avoid the NABET problem, that is, not to have NABET on a committee.

Q But the release of information in the committees was not considered by CBS to be bargaining.

A We felt that we could mutually agree that it was simply ancillary and not part of the actual negotiations, and that we could accomplish some needed exchange of information without

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making it part of the formal bargaining.

Q This was your proposal to the Union with regard to setting-up this?

A Yes. We were trying to get someting done. It was simply another idea.

Q Now, during the last couple of meetings in September, 1975, there was a proposal lmade by the Union with regard to an interim agreement, pending resolution of the problem involving NABET, was there not?

A Yes.

Q And the Union proposed extension of the '72 contract for six months?

A Correct.

Q And the Union also proposed retroactivity in any wage or benefit increase dating back to October 1, 1975?

A That is right.

Q And that particular proposal of the Union was made, let us say, the second to the last meeting that was held?

A The 29th.

Q And then there was a meeting on September 30, the last meeting in this series.

A Right.

Q And the Company replied to the Union's offer with regard to extension of the contract; is that right?

A Right.

Q And there was an agreement reached that the contract would be extended roughly for about five months.

A Yes.

MR. BAKALY: I am going to object to this line of questioning, Your Honor. I understand that a written agreement was entered into, and that is the best evidence if Counsel wants to get into this. There is a written extension of the agreement, so he ought to offer it.

JUDGE BENNETT: I believe it is in evidence, isn't it?

MR. BAKALY: No, it is not.

MR. SUNNESS: I don't plan to offer it, but if the Employer wants it --

MR. BAKALY: Well, I don't plan to offer it, but I object and move to strike the oral answers in that there is a written extension agreement that is the best evidence of this.

If Counsel wants it in, he ought to offer it, and if not, I move to strike the oral testimony.

MR. SUNNESS: This was preliminary, leading up to some other portion.

JUDGE BENNETT: The Complaint alleges on page (3) that on or about September 30 the Unions and Respondent agreed to extend the 1972 agreement for a five-month period.

MR. DAVIS: Further, Your Honor, this case does involve Section 8(a)(5), which deals with bargaining; and it seems to me that bargaining, not the eventual result, is the issue,

which the objection clearly overstated.

JUDGE BENNETT: Page (9) of the Answer admits that allegation.

MR. BAKALY: Then why must we have testimony about it.

MR. SUNNESS: Leading up to something else.

MR. DAVIS: Since you obviously prefer it not to be in the record.

MR. BAKALY: Grow up, Counsel.

JUDGE BENNETT: Why don't you go to the next question.

MR. DAVIS: Not until I have to, Counsel, and not in your arena.

Q (By Mr. Sunness) Did you state during the September 30 meeting that you did not want to the Union's offer regarding retroactivity because a NABET representative was present during the September 30 meeting?

A I think that I said that that was very substantive in the bargaining, that a retroactivity committment was usually a seriously bargained matter, that we were not prepared to discuss that with NABET present.

We would talk fully about the procedural matters we had been discussing up to that point, but with respect to retroactivity, that we would consider what had been said to us and I would communicate with the Union what we had to say, and I would do that directly wilth their chairman and copies to their committee and the IBEW people on that committee.

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Q Well, the discussion of retroactivity would not involve the release of confidential information.

A That is true. That by itself would not, but you may recall that our position all along was that we could not get into a fragmenting, a portioning-out, picking-and-choosing, without prejudicing the whole position with respect to bargaining on substantive matters.

So, at that point we decided not to make that exception.

In any event, we did reach an agreement on retroactivity.

Q But not in the presence of NABET.

A Not in the presence of NABET.

Q Now, when you were protesting NABET's presence in these negotiations during September of 1975, you were concerned that NABET as a representative of the employees of the competitor would or may disclose confidential information in an attempt to protect the employees of the competitor that it was representing.

A Correct.

Q When Mr. Draghi was proposing there be a pledge of some type of confidentiality -- first of all, Mr. Nolan was present in the room when this was brought up by Mr. Draghi, was he not?

A Yes, he was.

Q And Mr. Nolan never said anything at that time to the effect that he couldn't be bound by such a pledge.

A I don't believe he said anything at all.

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Q Did any NABET representative make any statements in the course of these negotiations that would indicate they could not be bound by any pledge of confidentiality?

A No NABET representative made any statements of any sort.

Q Did you ever have any conversations with any NABET representatives away from the contract negotiating meetings which indicated the NABET representatives wouldn't be bound by any pledge of confidentiality?

A I did not.

MR. SUNNESS: I have nothing further.

JUDGE BENNETT: Do you have anything?

MR. DAVIS: Yes, Your Honor.

MR. SUNNESS: Have I offered General Counsel's 4? If not, I would like to at this time.

MR. BAKALY: No objection.

JUDGE BENNETT: I will receive it.

(The document, previously marked GC Exhibit 4, was received into evidence.)

Q (By Mr. Davis) Mr. Simmons, did you obtain a pledge of secrecy from the international in 1976 before entering into the current negotiations?

A No, I did not.

Q Did you even discuss the matter?

A Did I discuss the matter of what?

Q Of maintaining confidentiality.

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A I think I have established that for several —

Q The answer is very simple: yes or no.

A I don't think it can be answered yes or no.

MR. BAKALY: Just a minute. Your Honor, the witness is entitled to answer the question and not be harrassed by Counsel.

I request that he be permitted to answer the question.

JUDGE BENNETT: What is the answer to the question? Then if you want to explain, I will permit it.

THE WITNESS: Would you repeat the question?

Q (By Mr. Davis) Yes, sir. Did you discuss with representatives of the IBEW maintaining confidential information that was to be presented in negotiations in January of February of 1976?

A I am sorry. There is a dangling thing there.

Did I discuss during January or February: Is that the question?

Q That is right.

A Yes.

Q All right. Where and when?

A Numerous occasions, both across the table and in informal, private sessions, we talked about the need for maintaining confidentiality of information that we were giving and showing.

JUDGE BENNETT: Did you want to explain that further?

THE WITNESS: No, I think that would be the answer I would want to give.

JUDGE BENNETT: All right. Next question.

Q (By Mr. Davis) Did you get any written guarantee from any representative of the IBEW?

A No.

Q Did any representative of the IBEW post a bond?

A No.

Q Did you discuss remedies for a breach of confidentiality at the time?

A No.

Q Mr. Sirmons, I believe you testified that you presented representatives of the Union with your proposals in Ossining, New York, in January '75.

A Yes.

Q Are those the proposals that have been the basis for the negotiations in January and February of 1976?

A The basis, I would say yes.

Q With respect to one of the Company proposals referring to overseas rates: was not that proposal, or one very similar to it, also raised in the '72 negotiations?

A It was.

Q Did that in the '72 negotiations also involve the use of mini-cams?

A It certainly contemplated that. The camera equipment

that was available at the time may be used.

Q You were asked some questions on direct regarding formal notice and official notice of participants in collective bargaining negotiations.

A Yes.

Q My question to you is, has in the past the International Brotherhood of Electrical Workers given you official notice or written formal notice who would participate in negotiations?

A No. But of course the notices always have the copies shown, the various locals and international. This is an agreement with the International, and the locals are shown on the copy.

Q Do you give the IBEW notice as to who is going to appear on behalf of CBS?

A No. Again, I a the person responsible. I sign the letters, and traditionally we have selected a representative committee.

Q You hvae described in your testimony, Mr. Sirmons, Mr. Nolan as a representative of your competitor.

Is that how you characterize Mr. Nolan?

A Mr. Nolan represents the employees of our competitors.

Q And in your opinion does that make him incapable of maintaining confidentiality where it might possibly affect a company with whom he has a collective bargaining relation?

A In my opinion it does.

Q Could you tell us what the basis of your opinion is?

A My opinion is based on Mr. Nolan's vital interest. His vital interest is in the well-being, the job security, and the economic well-being of the people he represents. It has absolutely nothing to do with CBS or its employees.

Q Mr. Sirmons, would that also apply to a representative of the IBEW who also represented employees of your competitors?

A No.

Q And why, in your opinion, would that not apply if Mr. Draghi, for example, represented employees at ABC, NBC, Mutual, et cetera?

A Because Mr. Draghi has a responsibility for the CBS employees that he must protect, and Mr. Draghi, I am sure, understands and appreciates that the lead time which it is possible for CBS to achieve through modifications in his agreement, is a form of additional job security for the CBS people; and those people, he has a responsibility for.

We have to rely on his recognition of that, his professionalism, and the fact that he has a legal right in any event to be there and to negotiate.

Q I believe you testified at one point that you felt that refusing to bargain on the grounds of confidential information gave you your best legal basis to bargain.

Is that a correct statement of your testimony?

MR. BAKALY: I object to that question. The record will

speak for itself.

MR. DAVIS: Fine. I will withdraw the question.

Q (By Mr. Davis) Is it your view that refusing to bargain with IBEW over the confidential issue gve you your best legal basis for refusal to bargain?

MR. BAKALY: I object to this question. The witness' views are immaterial and irrelevant.

JUDGE BENNETT: I will take the question.

THE WITNESS: You must understand that I am not a lawyer, and I was proceeding on the basis of legal advice in the days prior to moving for an unfair labor practice charge against the Union. We had considered with our lawyers all the possible avenues that we thought were available to us, and we had had under study this question of whether it was an unfair labor practice for the Union to bring in a stranger union into our negotiations, thereby making it impractical if not impossible for the Company to negotiate fully and freely over its proposals, whether that was because of the confidentiality problems an unfair labor practice.

We were advised that it was.

I was simply reflecting that advice.

Q (By Mr. Davis) Mr. Sirmons, I am interested in differentiating your view of the role of this confidential information in the bargaining process --

MR. BAKALY: I object. The question is unintelligible.

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JUDGE BENNETT: Had you finished?

MR. ASHE: He had not finished the question.

MR. DAVIS: I will begin again. Sometimes informality leads me astray, but I will be happy to ask direct, straightforward questions.

Q (By Mr. Davis) What is the function in your opinion of the confidential information in the bargaining process? Is it -- and I will give you an alternative, and we can have an objection to that -- is it bargaining proposals, or is it merely support for the Company's position as reflected by those proposals?

A The proposals themselves, we recognize, are widely distributed. They are done in the form of contract language. They reveal very little about the reasons underlying those proposals, and the kind of support that the Company is prepared to give in connection with those proposals.

So, the proposals themselves, as proposals, we were not describing as confidential.

Q The confidential information would not be necessary, in your opinion, would it, to transmit to the Union CBS' bargaining objective.

A Just to hand them proposals?

Q It would not require confidential information.

A No, I don't believe so.

Q Is it therefore fair to say taht your objective in using

confidential information was to improve your ability to argue your proposals, not to improve your ability to present them.

A I really believe it goes beyond that. I think it goes to the heart of our obligation to bargain in good faith.

Q Mr. Simmons, did you ever reveal to Mr. Draghi in any of your side bar meetings or any of your meetings individually with him any information to support your statement here of the permeation of these confidential matters?

MR. BAKALY: Could I have that question? I am wondering if that is asking for off-the-record side bar meetings.

JUDGE BENNETT: By "permeation" do you mean, to NABET?

MR. DAVIS: Well, let me withdraw that question and ask another.

Q (By Mr. Davis) You have described meetings with Mr. Draghi which were between the two of you and were side bar, which is a phrase I don't know.

Does that mean an off-the-record meeting?

A Generally it does. It may also mean that it is a little easier way to communicate, and the two participants -- in this case two -- understand that they are each to go back and express the substance of that meeting to his own committee.

It may mean otherwise also, but that is largely the way we operated in this negotiation.

Q Now, in any of those meetings, any of the meetings you may have held of that description with MR. Draghi in September

of '75, did you give him any idea of the confidential information that was to be presented?

I am not asking you what information, but just whether you revealed it to him?

A What I did was tell him the kinds of things that we wanted to reveal. I don't believe that I gave him the precise information in any of the various areas where we were proposing.

Q Did you ever in fact say to him that the confidential materials so permeate the negotiation subjects that you cannot proceed with NABET present?

A Certainly the substance of that thought I gave to him on a number of occasions in person and on the phone.

Q Mr. Sirmons, yesterday in your testimony there was some question raised about whether the proposals sometime in mid-September for a pledge of secrecy was to be an individual pledge or not.

Do you recall that testimony? I believe you testified today with respect to the same subject.

Do you recall that testimony?

A Yes.

Q Was it your testimony, and is it your position, you would not have been satisfied with an individually attested-to pledge of secrecy by everyone on the union side, including Mr. Nolan?

MR. BAKALY: Objection. What his testimony is in the record is in the record, and is not relevant and material.

A I couldn't answer the question in any event, because I don't really know what you are talking about. You never did flesh it out.

Q Are you saying there was never an offer made by the Union to keep materials in confidence?

A It was just an idea.

Q Would you differentiate for me a proposal from an idea.

A Well, a proposal, if it is a proposal you expect to have considered, should stand on four corners. It ought to say what it intends to propose, that it is complete, and is some thing that the other side can take and consider, knowing what it is dealing with.

This was not that at all; this was just a concept.

Q Well, let me ask you a somewhat simpler question to answer, Mr. Sirmons.

Isn't it true that you simply did not accept any form of compromise on the question of whether NABET could be included in the proceedings?

A No it is not true.

Q Mr. Sirmons, in 1972 was there a strike involving CBS and the IBEW?

A Yes, there was.

Q Were confidential items part of the issues in the strike?

A I would say that the issues that caused the strike were issues about which there were confidential aspects which were discussed in the negotiation, yes.

Q How long did that strike last?

A Eight weeks.

Q During the period of that strike did anyone from the IBEW to your knowledge disclose any of the confidential information that was at least obviously of substantial interest in the strike?

A Not to my knowledge.

Q In your opinion, when a union goes out on strike, is the winning of that strike by any means of major interest to the union?

A I guess it would depend on the union, but --

Q How about this union?

A As a general statement I would say yes.

Q How about your experience with this union, the IBEW?

A I think this union tends to treat its approach to strikes in a very balanced way.

JUDGE BENNETT: I would assume it is not an academic exercise when a union goes out on strike.

MR. ASEE: And keeps it up for eight weeks.

JUDGE BENNETT: All the more so.

Q (By Mr. Davis) Mr. Simmons, can you tell me why you were unwilling to accept this pledge of confidentiality from the

same local union that had maintained secrecy under the conditions of an eight-week strike?

A I am not sure I understand this.

JUDGE BENNETT: It seems to me this has been asked and answered and tailored to the NABET presence.

MR. DAVIS: Well, let me ask another question.

Q (By Mr. Davis) Did you feel that the IBEW representatives on the negotiating committee could not enforce a pledge of confidentiality given by Mr. Nolan of NABET?

A Without really knowing what the proposal was, I didn't progress that far in my thinking.

Q You didn't think it was significant enough to trouble taking it any further?

A Well, I asked a number of questions on that point. I got no answers.

Q Thank you, Mr. Sirmons.

MR. DAVIS: I have nothing further.

MR. ASHE: May I, Your Honor?

JUDGE BENNETT: Proceed.

Q (By Mr. Ashe) Mr. Sirmons, you have stated over and over again your view that the Company's proposals permeated the whole negotiations.

A Yes.

Q And you have used that term without any explanation of it.

Is it not a usual practice in labor negotiations to take certain proposals, even though you have some very tough ones, to take certain proposals that you may either agree upon or definitely disagree on, and try to get those out of the way so that you can get to the tough ones?

A Well, it would depend on the kind of problem that you have. It may well be that you can do that, but where you have got a kind-of overriding problem, a very complex problem such as we had here, it was just not possible to deal with Union issues, or in fact with Company issues, not involved with confidentiality independent of that major body of issues.

We studied this at length; we could find no way -- and we tried, because we wanted to move the negotiations along, but we found there was no way to do it without seriously harming our chances of achieving what we felt we wanted and had to achieve in the negotiations.

Q So that you saw no way of trying to get to any of the other issues at all.

A Not independent of the overall bargaining bprolem.

MR. ASHE: I have no other questions.

JUDGE BENNETT: Any redirect?

MR. BAKALY: Just a couple, Your Honor.

I don't like inferences that we are hiding evidence. I will ask to have this document marked as Respondent's next-in-order.

JUDGE BENNETT: No. 2.

(The document above-referred to was marked Respondent's No. 2 for identification.)

MR. BAKALY: This R-2 is a letter dated November 20, 1975, from James Sirmons of CBS to Charles Pollard.

REDIRECT EXAMINATION

Q (By Mr. Bakaly) I show R-2 to you, Mr. Sirmons, and ask you if you have seen that letter before and if in fact it wasn't originally executed by you on or about the date it bears.

A Yes, I have seen the letter, and it is —

MR. DAVIS: I would be willing to stipulate to its authenticity and admissibility.

MR. SUNNESS: No objection.

MR. BAKALY: Offered.

JUDGE BENNETT: Received.

(The document, previously marked Respondent's No. 2, was received into evidence.)

Q (By Mr. Bakaly) Directing your attention to General Counsel's 4, Mr. Sirmons, which I will show to you, regarding the proposals on page (1) of GC 4, there is a Union proposal to establish equipment weight limitations for technicians on remote assignments.

The confidential information that the Company wanted to disclose to the Union with respect to the size of the ENG

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cameras that it wanted to use would apply to that proposal of the Union, would it not?

A Well, it certainly would be a factor. Yes, I would say that it is bound up in that whole discussion of the accelerating pace of the conversion to ENG which the smaller camera makes possible.

Q During these quarterly meetings as a result of the 1972 negotiations, no member of NABET was ever present in any of those quarterly meetings.

A No, sir.

Q By July of 1975, Mr. Sirmons, had the International Brotherhood of Electrical Workers demonstrated to CBS that it would keep confidential CBS' business practices and trade secrets?

A IT had.

MR. BAKALY: I have no further questions, Your Honor.

MR. SUNNESS: We have nothing.

JUDGE BENNETT: You are excused.

MR. BAKALY: You may be excused, Mr. Sirmons.

(The witness was excused.)

JUDGE BENNETT: Off the record.

(Discussion off the record.)

JUDGE BENNETT: On the record.

It appears that the only matter we have left is the showing of the tape, and the Regional Attorney wishes to be

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present and is not available.

I gather there is no more rebuttal?

MR. SUNNESS: None, Your Honor.

JUDGE BENNETT: Unless the tape induces it, and I suspect it won't.

MR. BAKALY: It will not.

MR. DAVIS: I doubt it.

JUDGE BENNETT: We will recess until 1:30.

(Whereupon, at 12:00 o'clock, the hearing was recessed for lunch to reconvene at 1:30 the same day.)

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AFTERNOON SESSION

2:15 p.m.

JUDGE BENNETT: On the record.

In the event the record does not indicate, the General Counsel and Charging Parties have no rebuttal, and all we are going to take now is this tape, out of order as it were, on the part of Respondent. For convenience's sake we are taking it now rather than earlier in the hearing.

Respondent has moved originally for a broader restrictive order, but at the moment Respondent is asking only that this tape be made secret, made so secret by the Court Reporter, and that it be inspected only by me, the Board and its staff, and the appropriate reviewing courts, and that the tape may be seen by everyone present in the room.

MR. BAKALY: And one other thing: that the people present in the room be instructed not to disclose the contents to anyone.

JUDGE BENNETT: I would assume that most of the people present know the content.

MR. BAKALY: That is correct, except for the lawyers and the Reporter and yourself.

JUDGE BENNETT: And did you say that you wanted to make a representation that this tape has previously been shown to the Union?

MR. BAKALY: Yes. And let me just briefly put it in its

proper perspective.

This tape is one of the pieces of confidential trade secrets and business information which were told and shown to the Union during the 1976 negotiations in January and February, and this particular tape was shown at least a few times, three times really, to members of the Union committeeas an example of the kind of technology that was around the corner, and the reason why CBS needed certain proposals, and needs certain proposals, in these negotiations.

This is just one of the pieces. I don't want the record to reflect that this is the totality of the confidential information. This is only one of the items.

JUDGE BENNETT: All right. I am making the ruling you asked for, to the extent that I and the Board can police that ruling. If a witness divulges that tape that may be another matter.

I am, however, giving the instruction you asked for.

MR. BAKALY: Thank you.

JUDGE BENNETT: Now, General Counsel wanted to say something.

MR. SUNNESS: Well, the General Counsel's position is that with regard to the NLRB being the administrative agency covered by the Freedom of Information Act we would be unable to agree to any type of non-disclosure rule unless the particular piece of information that would be covered by the

non-disclosure rule would fall under the definition of a trade secret, confidential information as specified by Section 552(b)(4) of the Freedom of Information Act.

JUDGE BENNETT: You are saying that this trade secret may well be exempt from the Freedom of Information Act as to disclosure?

MR. SUNNESS: Well, let us say, the Freedom of Information Act has a specified exemption for trade secrets under Section 552(b)(4), and if this item were to fall under that particular exemption, then of course the NLRB would not be under any obligation under the provisions of the Freedom of Information Act to disclose that.

JUDGE BENNETT: Well, theBoard has been having a rather interesting track record of late in the U S Federal District Courst with respect to the Freedom of Information Disclosure Act. I suspect if that problem comes up, assuming an adverse ruling by the Board -- assuming a ruling that whoever wanted to see it could not see it, then it would probably end up in the Federal District Court.

MR. SUNNESS: I take it that on the basis of the offer of proof made by Respondent's Counsel as to what the nature of this exhibit is, is the Judge making an ad hoc determination at this time that this particular exhibit would fall under exemption of the Freedom of Information Act?

JUDGE BENNETT: I frankly don't know.

MR. SUNNESS: Well, I was instructed by the General Counsel to take the following position:

That the General Counsel would oppose any order that would keep thisparticular piece of information exempt from disclosure to the public or from any order that would clear the courtroom, until Respondent's Counsel made a specific offer of proof, and then the ad hoc determination be made by the Judge that this particular exhibit would fall within the exemption of the Freedom of Information Act.

MR. BAKALY: Your Honor, we will withdraw a request to show the tape and we rest.

JUDGE BENNETT: All right. That solves one technical problem, though I must confess it is an impressive looking piece of equipment -- not the tape, the machine.

I gather Counsel would like to waive oral argument and submit briefs in this case?

MR. SUNNESS: Yes, Your Honor.

MR. DAVIS: Very well.

MR. ASHE: Yes.

MR. BAKALY: Yes, Your Honor.

The Reporter tells us it will be over ten days before we get the transcript.

JUDGE BENNETT: Today is February 25. I will give Counsel 28 days from today for the purpose of filing briefs, which will bring us up to the 24th of March -- and why don't we

round it out to Monday, the 29th. That will give Counsel the benefit of the weekend.

Briefs must be in triplicate, and should be submitted to me, care of the Board, 450 Golden Gate Avenue, Box 36006, San Francisco.

We have bargaining negotiations in 1972, 1975, and 1976. As I indicated before, there may be some aspects of the Second Circuit General Electric Case in it, and whatever authorities the parties choose to cite.

I gather there is nothing further, so the hearing is now closed.

(Whereupon, at 2:30 p.m., the hearing in the above-entitled matter was closed.)

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Stipulated that during the course of the negotiations the Company intended to present information as to new equipment, and processes that come within the category of trade secrets and confidential business plans which would give the Company a competitive advantage over other broadcasters. It is further stipulated that the introduction and use of such new equipment and processes might require changes in the terms and conditions of employment as set forth in the collective-bargaining agreement between the Company and IBEW.

31-CA-5587

G.C. 2

CBS

2-24-76




NATIONAL LABOR RELATIONS BOARD
Docket No. 31-CA-5587
GC 3
Identified
Received
Rejected
In the
Date 2-24-76

# AGREEMENT

Made and entered into this 9th day of January, 1973, by and between the COLUMBIA BROADCASTING SYSTEM, INC., a New York corporation having its principal offices at 51 West 52nd Street, New York, New York (hereinafter called "CBS" or "Employer"), party of the first part, and the INTERNATIONAL BROTHERHOOD OF ELECTRICAL WORKERS, an unincorporated labor organization, having its principal office at 1125 - 15th Street, N.W., Washington, D.C. (hereinafter called the "IBEW" or the "Union"), party of the second part, for and in behalf of Local Unions No. 45 of Los Angeles, Calif.; No. 202 of San Francisco, Calif.; No. 1212 of New York, N.Y.; No. 4 of St. Louis, Mo.; No. 1220 of Chicago, Ill.; No. 1228 of Boston, Mass., and No. 1200 of Washington, D.C., and all such broadcast engineering personnel whose work is hereinafter defined in Section 1.03 (all of whom are herein called "Technicians"), now or hereafter employed by CBS, its successors or assigns at Stations KNX, KCBS, WCBS, KMOX, KMOX-TV, WBBM, WEEI, WCBS-TV, KNXT, WBBM-TV, Washington facilities, any other shortwave and relay facilities that may be operated by CBS during the term hereof, and those FM broadcasting stations and broadcast facilities operated in connection with any of the stations listed above. This Agreement shall also be binding upon anyone leasing or purchasing from CBS the entire operation of any of the above stations.

Nothing in this Agreement shall be construed as limiting the right of CBS to lease studio space and equipment to other companies, provided that no such lease will be entered into for the purpose of evading any obligation under this Agreement.

This Agreement does not cover or apply to any

employees or operations of any division or subsidiary presently existing or that may be created in the future to engage in a business unrelated to broadcasting.

WITNESSETH, that in consideration of the mutual promises and agreements herein contained, the parties hereto agree as follows:

## BASIC PRINCIPLES

The Employer and the Union have a common and sympathetic interest in the radio and television broadcasting business. Both parties recognize the benefits to be realized from harmonious relations between them and the advantage of peaceful and common sense adjustment of any difference. Furthermore, both parties recognize that radio and television are developing arts and that the joint interests of the Employer and the Union as representatives of Technicians covered by this Agreement require the fullest cooperation between the parties in order that the parties may maintain and improve their positions in the industry.

Every effort will be made to settle all disputes and controversies amicably and without recourse to arbitration. Accordingly, the Union and the Employer shall immediately bring to the attention of each other all matters which may require adjustment and shall also acquaint each other with all problems which may arise which are of mutual interest.

## ARTICLE I

**Section 1.01. Term.** (a) This Agreement shall be in effect for the period from October 1, 1972, to and including September 30, 1975 and from year to year thereafter unless or until terminated as set forth below.



(b) Either party desiring to change or terminate this Agreement must notify the other, in writing, at least sixty (60) days prior to September 30, 1975 or September 30 of any subsequent year. Whenever notice is given by either party of proposed changes, the exact nature of the changes desired must be stated in the notice and the parties will promptly enter into negotiations thereof. In the event that as a result of such negotiations this Agreement has not been renewed, modified or extended by the date on which it would otherwise have terminated as a result of such notice, status quo conditions shall continue until either party gives the other written notice terminating such conditions.

(c) Any changes, supplements or amendments made during the term of this Agreement must be reduced to writing, numbered serially, signed by the parties hereto, signed by each Local Union and approved by the International President of the IBEW, and then shall become a part of this Agreement.

(d) This Agreement shall supersede any and all Agreements which have been entered into by the parties prior to the date of execution of this Agreement.

**Section 1.02. Recognition and Scope.** (a) The Employer recognizes the right of Technicians covered by this Agreement to self-organization and to bargain collectively through representatives of their own choosing and, accordingly, hereby recognizes the IBEW as the sole and exclusive bargaining agent for all Technicians.

(b) This Agreement covers employment by CBS (including any Division or subsidiary) involving any of the work specified in Section 1.03 hereof when done in connection with the production and/or recording of material for broadcast, theatre or pay television, film-tape or tape-film transfer or standard conversion or

recording processes in connection with broadcasting and those types of closed-circuit upon which Technicians have been or are now performing services. In no event shall anything contained in this paragraph be construed as adversely affecting any work currently being performed by Technicians under this Agreement.

**Section 1.03. Work Jurisdiction.** The work covered by this Agreement shall include all of the following work:

(i) at any of the CBS stations and/or facilities listed in the opening paragraph of this Agreement, or

(ii) on CBS programs (as hereinafter defined) within the territorial limits specified in Section 1.04 hereof.

(a) In connection with the installation (except such new construction work as is within the jurisdiction of the IBEW and as may be determined by mutual agreements with other local unions, or failing such agreement, by the International Office of the IBEW to be under the jurisdiction of some other of its local unions), operation, maintenance and repair of radio broadcast, television, sound effects, facsimile and audio equipment and apparatus by means of which electricity is applied in the transmission, transference, production or reproduction of voice, sound and/or vision with and/or without ethereal aid, including all operation and maintenance connected with flying spot scanners, motion picture projectors (subject to the exceptions hereinafter stated) and all types of recording on disc, wire, video tape, audio tape, kinescope or television recording and/or any other means of recording which may supplant, substitute for or augment the foregoing.

On those remotes where the lighting work is done by Technicians, CBS will assign an Assistant Supervisor who shall work with the group, including any work involved in setting up and/or operating the field lighting equipment. Instructions from the Lighting Director will be given through said Assistant Supervisor.



The Employer will not enter into any contracts or agreements altering jurisdiction over the disputed areas of remote lighting in New York City, or take any other action changing the status quo, until the unions involved have had full opportunity to work out this problem to the mutual satisfaction of all parties. This paragraph is not applicable to the work jurisdiction of Lighting Directors.

Within Los Angeles County, lighting in its various phases for CBS may be done by employees under another collective bargaining agreement covering such work. However, in emergencies CBS may exercise its option to assign such work to Technicians. With respect to lighting work outside Los Angeles County, where exclusive jurisdiction, as per past practice, has been granted to a specific union, CBS will make work assignments accordingly. Notwithstanding, lighting for programs regularly produced in CBS studios or on CBS premises in Los Angeles County and which are occasionally produced in remote locations outside Los Angeles County may be assigned to employees other than Technicians.

All other lighting work in its various phases for telecasting, outside Los Angeles County, will be performed by Technicians. Nothing herein shall be applicable to the work jurisdiction of Lighting Directors.

Lighting work in the studios and on remotes within a radius of fifty (50) miles of the Company's main studios in Washington, D.C. shall be done by Technicians. This shall not be construed as interfering with the assignment of a New York Lighting Director where CBS elects to make such assignment.

(b) Recording operations shall include recording, re-recording, duplicating and playback by means of the following: disc, wire, tape, audio tape recorders, video tape recorders, wire recorders, disc recorders and all types of playback mechanisms including turntables, wire and video and/or audio tape playback equipment, kinescope recorders and any combination of electronic cameras and motion picture cameras, such as "slave cameras," "gemini process" and any similar combination camera operation (including the loading of film for such). Motion picture projection machines and slide projectors and any other apparatus which is used to transmit, transfer or record light or sound for immediate or eventual conversion into electric energy, and/or all recording operations, including the cutting, editing and splicing of video and audio tape performed by the Employer, shall be within the scope of this Agreement and such work shall be performed only by Technicians.

The work of shooting motion picture film, including the recording of the sound track for such film and the lighting for such shooting, is not included within the Work Jurisdiction of this Agreement, except that the lighting and the recording of sound for all motion picture film shooting done in the KMOX-TV studios is included within the Work Jurisdiction of this Agreement.

In Chicago and at KMOX-TV the operation of turntables (with the exclusion of mixing and fading operations) for playback purposes shall be excluded from the foregoing and, in Chicago, all sound effects operations shall also be excluded.

Nothing contained in this Section shall be deemed to apply, on an exclusive basis, to the playback of recordings (excepting Video Tape recordings) or the viewing of film when such playback or viewing is performed in non-technical areas and is done for



purposes of audition, determination and judgment of program content (but not technical quality), sales, promotion, and similar purposes where not in connection with rehearsal or broadcast.

Except at KMOX-TV and in the Washington jurisdiction, nothing herein shall apply to the work of operating motion picture projectors and/or slide projectors in the operation known in the industry as "front and rear screen projection."

(c) At KMOX-TV all work in connection with scenery construction, scenery design and arranging is within the scope of jurisdiction of this Agreement. Except at KMOX-TV, the work covered by this Agreement does not include the operation of effect projectors used to supplant, substitute for or augment scenery only, on live sets.

(d) Any electronic or electrical device or devices mounted on or attached to equipment operated by Technicians and/or operated from the control room shall be set up and/or operated by Technicians, with the exception of the device known as "Teleprompter" and other similar prompting devices which Technicians shall attach to and remove from camera dollies and/or tripods but (when operated from the "floor") may be operated by persons other than Technicians. Where CBS operates any such electronic or electrical devices with its own employees and such device is mounted on or attached to equipment operated by Technicians, or is operated from the control room, such device shall be set up and/or operated by Technicians. Nothing in this sub-Section shall be construed to apply to the operation of any device the purpose of which is to operate lights, lighting equipment and/or special visual effects (but distinguished from electronic camera chain effects), or to cue any such operations. However, this exclusion shall not

apply where any such device is mounted on or attached to technical equipment which is operated by Technicians.

The exceptions listed in this sub-Section (d) do not apply in the St. Louis and Washington jurisdictions; all such equipment in said jurisdictions shall be installed, maintained and operated only by Technicians. However, on any occasion a prompting device is supplied and operated by an independent contractor with his own employees, such operation is not included within the work jurisdiction of this Agreement.

(e) At St. Louis, the work of editing, cutting and/or splicing motion picture film is included in the jurisdiction covered by this Agreement. The work of editing, cutting and/or splicing motion picture film in New York City is included in the jurisdiction covered by this Agreement, subject only to the provisions of Section 1.05 (b).

At Chicago, the work of editing, cutting and/or splicing motion picture film, including magnetic tape used as a substitute for the sound track of motion picture film and the operation of motion picture projectors for the purpose of screening film for the editing and cutting of such film, is not included within the jurisdiction covered by this Agreement.

At Los Angeles, the work of editing, cutting and/or splicing motion picture film, including cutting and editing magnetic tape used in conjunction with or as a substitute for motion picture film (in accord with the National Labor Relations Board certification in Case 97 NLRB No. 81) and the operation of motion picture projectors for the purpose of screening film for the editing and cutting of such film, is not included within the jurisdiction covered by this Agreement.

(f) Where power generating equipment for electric power purposes is operated by CBS employees in connection with remote broadcast, field operations, or transmitter operations, such operation shall be performed by Technicians covered by this Agreement.



(g) All working drawings, technical drawings and/or mechanical design drawings made for Radio Technical Operations and TV Technical Operations, except such drawings made in the General Engineering Department at New York, shall be made by Technicians whose assignments to the work are made on a daily basis and who may be assigned to other duties during the same day. Such drafting assignments and other duties will not be simultaneously performed.

The provisions of this sub-Section shall not apply to sketches, rough preliminary drawings or architectural drawings (or any copies made by a duplicating process); such work may be performed by other persons.

(h) The construction, assembly, wiring and installation of electronic equipment or components developed by CBS for use in its radio or television broadcasting operations (work heretofore performed by the Technical Operations Construction Shop and more recently by the Engineering Services Section in New York City) shall be performed by Technicians covered by this Agreement. This provision does not apply to the manufacture of such items of equipment when manufactured to CBS' specifications in such quantities as to be available for sale generally on the open market and not for CBS use only. Nothing herein shall be construed as limiting the right of CBS to purchase items of equipment manufactured by others and available to purchasers other than CBS.

Where equipment has been purchased from a manufacturer or supplier and has not been finally accepted by the Employer, de-bugging work may be done on such equipment, for a period not to exceed six (6) months from completion of installation, by Techni-

cians with the assistance of:

(i) representatives of the manufacturer or supplier, or

(ii) professional engineers in the employ of the Employer;

at all locations in accord with existing and past practices at New York.

(i) The operation, where any operation is required, and maintenance (except where maintenance work is performed by the manufacturer of the equipment, or by a service company specializing in such work; this exception is limited to maintenance of the computer/s and does not extend to any other equipment covered by this Agreement) of automatic or semi-automatic devices which contain logic circuits, storage or memory circuits, memory search circuits and/or decision-making circuits where such device is used by the Employer as a part of broadcast operations and to perform any of the specific functions included in the work jurisdiction specified in this Section 1.03. Accordingly, the Employer recognizes that the use of such equipment in broadcast operations may require training in new skills and therefore agrees to provide reasonable training for its Technicians, with the intent that all maintenance work will be exclusively performed by the latter at the earliest possible time.

The above jurisdiction does not include the initial preparatory steps required for computer information, such as tape perforation by a Flex-O-Writer (or similar device), but information transfer, if the function is performed, to the computer/s referred to above by means of a tape reader is wholly within the work jurisdiction of Technicians, except that the Flex-O-Writer operators may perform the function of feeding tape into the tape reader.

(j) Technicians shall not be required to perform



any work which is inconsistent with the provisions of this Agreement and, within the territorial limits specified in Section 1.04 hereof, only Technicians shall perform any of the work specified herein, including the handling and distribution of technical equipment and driving of Technical Operations Department vehicles and/or loading and/or unloading technical equipment.

(k) Where radio sets, television sets, cameras, dollies and similar items of equipment are used on a set, on camera, solely as props and not as operating equipment, the placing and handling of such equipment is not within the work jurisdiction.

(l) Where as an integral part of a television program a performer is required to push a button, start a turntable, place a needle on a record, or in any other incidental way, touch or handle a piece of equipment, on camera, as part of the performance, such action is not to be construed as operation of equipment within the meaning of the work jurisdiction under this Section 1.03.

(m) Where a prop, such as an adding machine, a typewriter, or a clock is on camera and has a sound integrated with its normal working, the operation of such a prop is not within the work jurisdiction. Where the normal sound associated with the prop is in any way changed to create a special sound effect, the operation shall be regarded as a sound effects operation within the jurisdiction of this Agreement.

(n) It is agreed that the operation of a cassette-type recorder by CBS Radio of the type usually referred to as a "Minitape," "Magna-Mite" (or similar audio tape recorder which is battery and/or spring operated and weighs less than thirty (30) pounds as a unit, having not more than two functioning microphone inputs), or the operation of portable audio transmitting and receiving equipment of the "Walkie-

Talkie" type (by CBS Radio—or by CBS Television) may be performed by those CBS employees whose employment regularly includes the gathering of news or interview material for broadcast and those who perform on the air (and excluding all other employees) without the services of a Technician, under the following circumstances and conditions:

(1) The equipment must be CBS-owned and must be maintained only by Technicians covered by this Agreement.

(2) The operation of the recorder shall be only for the purpose of supplementing or augmenting regular broadcast coverage (or recording for later broadcast) of the particular event.

Scheduled news conferences occurring within the territorial jurisdiction of the Washington News Bureau as defined in Section 1.04 of this Agreement shall be recorded by Technicians unless such news conferences are so spontaneous as to preclude the possibility of obtaining a Technician for the coverage of such conference. Notwithstanding the above, such scheduled news conferences may be recorded by CBS Radio Division reporters regularly assigned to Private Line News Exchange for the purpose of gathering of news in the Washington, D.C. area.

It is agreed that any recording operation requiring the connection of a Minitape recorder to a pool feed device or multi-output audio source will be done solely by a Technician.

All Minitape recordings, which are intended for broadcast, upon return to the studio, shall immediately be given to the Technical Operations Department for dubbing or for broadcast followed by dubbing.

The employee who originally recorded the material under the above provisions may rewind the tape for



the purpose of playing it back to a CBS Radio studio facility covered by the terms of this Agreement by telephone and/or mobile radiotelephone (including equipment operating on Remote Pickup Unit frequencies). If the recorded material is broadcast simultaneously with its receipt, it shall also be recorded by a Technician. However, such operations may be performed only as the result of a waiver of jurisdiction by the Union, which shall apply separately as to each facility as follows:

(i) It is agreed that the number of Technicians on staff as of the effective date of this Agreement shall be maintained during the term of this Agreement if the facility elects to operate under the waiver, and

(ii) Such number of Technicians may become decreased only as the result of death, retirement or voluntary resignation, and

(iii) If the facility elects to abandon use of the waiver, it may not thereafter reinstitute such operation under any circumstances; similarly, the provisions of (i) and (ii) above shall not apply after such abandonment.

(iv) In the application of the foregoing, the parties agree that the number of Technicians at each facility as of the effective day of this Agreement is:

| | | | |
|---|---|---|---|
| KCBS | 19 | WEEI | 11 |
| KCBS-FM | 3 | WEEI-FM | 3 |
| KMOX | 16 | The Radio Network at Washington | 10 |
| KMOX-FM | 3 | The Radio Network at New York | 34 |
| KNX | 22 | The Radio Network at Los Angeles | 5 |
| KNX-FM | 3 | PLNX at New York | 2 |
| WBBM | 23 | | |
| WBBM-FM | 9 | | |
| WCBS | 26 | | |
| WCBS-FM | 8 | | |

Except as is provided in the preceding, all playback operations and all other operations relating to cutting and splicing, determination of technical quality, dubbing, rehearsal and broadcast of recordings made under one or more of the above circumstances will be performed only by Technicians; however, after recording or dubbing by Technicians, such recordings may be played by persons not covered by this Agreement for the purposes of audition, determination of program content (but not including technical quality), sales and/or promotion and similar purposes where not in connection with rehearsal or broadcast.

All maintenance of portable recorders and/or portable transmitters and/or receiving equipment of these types, as distinguished from operation (as set forth herein) will be done solely by Technicians.

At each facility covered by this Agreement, the Employer will furnish a list to the Local Union of those employees eligible to use Minitape, and will post such list on the Technicians' bulletin board. No employee will be permitted to use such recorders whose name is not on the list.

(o) The following operations in Radio may be performed by CBS employees other than Technicians in the particular circumstances as specified herein:

(i) On telephone conversation or interview programs, the emergency cutoff switch may be operated by the announcer or other talent conducting the program. This exception shall also apply to similar emergency cutoff devices, such as the device known as "a cough box."

(ii) The starting of the clock which transmits the impulse activating the Net-Alert system, only for the purpose of precise timing of insert material, may be done either by the announcer, news correspondent, or by the Associate Director assigned to the program.



(iii) It is understood and agreed that where the pilot is the sole occupant of an aircraft, he may operate the transmitting equipment located in the aircraft. Any work in connection with the installation, maintenance and/or repair of such transmitting equipment shall be performed only by Technicians.

(iv) The microphone switch may be operated by the announcer or other talent conducting the program. However, such switch shall not be utilized to perform any function other than turning on and/or turning off the microphone. In the event the microphone switch is operated in accordance with this subparagraph (iv), the output of the microphone shall be fed through an audio mixing console which shall control no more than one program at a time. Such console shall be operated by a Technician.

(p) It is understood and agreed that in no case shall a member of a film camera crew be permitted to operate portable audio recorders for the purpose of especially recording program material for radio.

(q) It is understood that the listing of specific items of Trade Jurisdiction in all the sub-Sections of this Section is not intended to limit the scope of coverage of the general provisions in this Section establishing the Trade Jurisdiction of the work covered by this Agreement.

**Section 1.04. Territorial Jurisdiction.** Exclusive jurisdiction over the work described in Section 1.03 above applies only within the following territorial limits:

(1) Work performed at any of the stations and/or facilities listed in the opening paragraph of this Agreement.

(2) Work at the point of origin of all CBS programs (as hereinafter defined) originating within a radius of two hundred (200) miles

from the main studios of each of the stations (including the Washington studios) covered by this Agreement other than Station KNX and/or KNXT, or within three hundred (300) miles from the main studio of Station KNX and/or KNXT (for the purposes of this Section, Clark County, Nevada, shall be considered as within the 300-mile limit) except

(a) live TV programs and live or recorded radio programs co-produced (jointly arranged and produced) with a station regularly affiliated with CBS under the terms of a written affiliation agreement and originating at a point not more than fifteen (15) miles outside the limits of the city in which the main studio of the CBS-affiliated station is located,

(b) programs produced jointly with NBC, ABC, MBS or any established national or regional network or networks on a special event or public service basis,

(c) programs originating in the studios of any station regularly affiliated with CBS under the terms of a written affiliation agreement,

(d) remote pickups originating within fifteen (15) miles of the main studios of a station regularly affiliated with CBS under the terms of a written affiliation agreement where such station employs Technicians under the terms of a collective bargaining agreement with any IBEW local union. This does not include a Washington, D. C. affiliate.

(3) For the purposes of this Section 1.04 mileages shall be determined from Civil Aero-



nautics Sectional Maps of the section involved.

(4) It is understood and agreed that programs originating outside the Continental United States need not be handled by a Technician. The only exception to this is that portion of the Republic of Mexico lying within a radius of three hundred (300) miles of the main studios of KNX and/or KNXT. It is understood that the obligation to use Technicians on any such remote pickup shall not apply where the time element is of paramount importance.

(5) In no event shall CBS refuse to assign a Technician or Technicians in any case where CBS is obligated by the terms of this Agreement to assign a Technician, because of any claim made by any other party to the operation of any technical equipment in any particular area.

(6) Where the point of origin of any program covered by this Section is within the territorial jurisdiction as defined above, the Employer may assign the work to any Technicians employed under this Agreement, subject to the provisions of Section 5.05 hereof.

This privilege shall not be exercised in a manner to cause any layoff in any location covered by this Agreement.

(7) At its election, CBS shall have the right to send a Technician or Technicians to operate technical equipment at the point of origin of all CBS programs originating in the field and to handle such originations even when such originations are outside of the territorial limits specified in this Section 1.04. The Employer will continue its practice of making every reasonable effort to avoid requiring

a Technician to accept a remote assignment outside of the territorial jurisdiction, where the Technician involved has any good reason acceptable to the Employer for refusing such assignment. It is recognized that the requirements of the business are such that the Employer must reserve the right to require acceptance of such assignment where no other Technician or Technicians are available who will meet the particular requirements of the assignment in question.

(8) As used in this Agreement, "CBS programs" shall mean those programs (a) produced by CBS, or (b) produced by others for CBS, provided CBS owns the basic underlying property rights in such program or has, by contract, the right to determine the facilities to be used in production.

**Section 1.05. Sub-Contracting.** (a) Except as permitted by sub-Section (b) of this Section 1.05, no work covered by Section 1.03 hereof and to be performed within the territorial limits specified in Section 1.04 shall be contracted out unless it is impractical to perform such work under this Agreement because CBS does not have the facilities for performing such work. CBS agrees that it will not contract out to any party any work in connection with the recording or duplication of TV programs by means of either dual camera ("slave" camera, "Electronicam" or "gemini process") operation or video tape if such work is to be performed within the territorial limits specified in Section 1.04.

(b) The work of editing and cutting motion picture film in New York City may be sub-contracted where, in the judgment of CBS, it is necessary to do so, from the period beginning October 1, 1972 and ending September 30, 1974. This sub-contracting



privilege does not include editing and cutting of news films, as distinguished from documentaries, and is limited to editing and cutting on programs entirely on motion picture film and those programs predominantly on motion picture film but containing some live and/or video tape elements. In any such case, the sub-contracting privilege extends only to the film portions and not to video tape.

The Employer reserves the right to lease or make available any unconnected space within its properties to any independent contractor where CBS does not have any ownership or property interest in the contracting firm.

(c) Nothing herein shall be construed as limiting the right of CBS to accept and broadcast programs and/or announcements produced by others where CBS is acting only as a seller of time. Similarly, CBS shall continue to have the right to purchase and/or acquire by license programs and program material produced by others where such program is not a "CBS program" as defined in Section 1.04.

**Section 1.06. Employment and Union Membership.** (a) It is the intent of the parties to this Agreement that the Union shall have the maximum Union Security permissible under the law. In the event that any change in the applicable laws by statute or by final decision of a Court of competent authority takes place during the life of this Agreement, such favorable change shall be incorporated by reference in this Agreement until such time as the Union and the Employer agree to meet within one (1) week after one (1) party has notified the other and adjust the Union Security provisions of this Agreement so that the Union will continue to have the maximum security permissible under the law.

(b) It is the further intention of the parties hereto to cooperate in securing competent Technicians for CBS whenever a vacancy occurs or the staff is to be increased. To that end, CBS will give the Union as much advance notice as possible of openings and will consider fairly the qualifications of all applicants referred to CBS for such employment by the Union. If CBS should employ an applicant not a member of the IBEW, it shall, prior to the beginning of such applicant's work, refer the applicant to the Union for information as to the Union membership requirements.

(c) Each Technician covered hereunder shall as a condition of continued employment, signify his intentions to join and become a member of IBEW by tendering initiation fees and dues within thirty-one (31) days; provided, however, that nothing herein contained shall require the Employer to discharge or otherwise discriminate in any way against any Technician who has been denied membership or has had his membership terminated for any reason other than the failure of such Technician to tender the periodic dues and initiation fees uniformly required as a condition of acquiring or retaining membership. The failure of any Technician covered hereunder to be or become and thereafter remain a member of IBEW by reason of a refusal to tender the initiation fees or periodic dues so uniformly required shall obligate the Employer to discharge such Technician upon written notice to such effect by IBEW unless such dues or initiation fees are tendered within ten (10) working days after receipt of such notice.

(d) In hiring Technicians under this Agreement, CBS will give prior consideration to persons who have had experience in the employ of CBS or in the employ of other similar companies. Before filling any va-



cancy, CBS shall give to the Union reasonable notice of the existence of such vacancy. CBS will notify the Union, prior to each newly-hired Technician's first work day, as to the name, address and employment date of such Technician.

(e) **Check-off:** Any Technician who wishes to have the Employer deduct the amount of an initiation fee or monthly Union membership dues from his pay for transmittal to the Union shall execute an authorization card to be furnished by the Union in the form prescribed. Such authorization shall automatically cancel any prior deduction authorization executed by such Technician. The amounts of monthly Union membership dues and/or payments toward initiation fees will be certified to the Employer in writing from time to time by the Financial Secretary of the Local Union. A certification from said Financial Secretary, which changes the amount of said dues, shall become effective no later than the first day of the month following a period of thirty (30) days from the date the Employer received such certification.

One deduction in respect to the current month's dues will be made from the wages paid in the first week of each month, for the full amount of such dues, provided the authorization is received by the Employer at least one (1) week in advance of the scheduled deduction period and provided there is sufficient pay available to cover the same for the full amount authorized after all other deductions required by law or authorized by the Technician have been made. If the scheduled deduction for Union membership dues cannot be made in that week, the full amount of the deduction will be made from the Technician's pay in the next succeeding week in the current month in which there is sufficient pay. Deductions will not be made in respect to any prior months' dues except when the Employer, through error or oversight, failed to make

the deduction in any such month.

Within the week following the week in which the deduction has been made, the Employer shall deliver to the Union's Financial Secretary a check for the amount due, drawn in favor of the Local Union. Within the last week of each calendar month, the Employer shall furnish the Local Union Financial Secretary with a list showing the names of Technicians from whose pay regular deductions have been made, a deduction has been made for a prior month, or no deduction has been made because of cancellation of authorization, revocation of authorization, or insufficient earnings in the pay period, and such list will also show gross earnings for each payroll period up to the date of same.

Authorizations for deduction of dues which are executed in the form prescribed on or after the effective date of this Agreement may be revoked by a Technician by a written notice to the Employer and the Local Union by registered U.S. Mail, return receipt requested, not less than ten (10) days prior to the expiration of each one (1) year period of authorization. Such revocation shall be effective with respect to the deduction which would otherwise have been made immediately after such revocation. A newly-executed authorization signed by the Technician shall be required, if he desires to replace an authorization under which deductions have terminated in accordance with the provisions hereof.

It is agreed that a written assignment in the following form (or in a form substantially the same as the following form) will be acceptable for the purposes of this Agreement:

> "I hereby authorize and direct the Columbia Broadcasting System, Inc. to deduct from my pay, Union Membership initiation fee, dues and assessments in the amounts fixed in accordance



> with By-Laws of Local Union No. ..... and the Constitution of the International Brotherhood of Electrical Workers and pay same to said Local Union in accordance with the terms of the bargaining agreement between the Employer and the Union.
>
> "This authorization shall be irrevocable for a period of one year from the date hereof or until the termination date of said agreement whichever occurs sooner and I agree that this authorization shall be automatically renewed and irrevocable for successive periods of one year unless revoked by written notice to you and the Union not less than ten (10) days prior to the expiration of each one year period, or of each applicable bargaining agreement between the Employer and the Union, whichever occurs sooner.
>
> Signature.....
>
> Date....."

**Section 1.07. No Strike or Lockout.** (a) It is hereby agreed that so long as the Employer lives up to and complies with Article II of this Agreement, the IBEW will in all respects fulfill its obligations hereunder and will take no action interrupting the service or operations of the Employer. Similarly, so long as IBEW lives up to and complies with the terms of Article II of this Agreement, the Employer will in all respects fullfill its obligations hereunder and will not institute a lockout against the IBEW. Neither shall any strike or lockout be resorted to during the time that arbitration, as defined in Article II of this Agreement, is pending or in process in respect to any dispute or other matter.

(b) No Technician shall be penalized by the Employer for his refusal to cross a picket line which is

established as the result of an authorized strike by members of the AFL-CIO or independent labor organization nor will the Employer use the services of any Technician for the purpose of assisting any company in breaking any strike or effectuating any lockout.

No Technician shall be penalized by the Employer for refusal to work with non-Union operating personnel where such personnel is performing the functions of a Technician as specified in Section 1.03 hereof.

The word "penalized" as used above is intended to cover any punitive action such as, but not limited to, discharge, discipline or deprivation of vacation, seniority or pension rights. It is not intended to impose or imply any obligation to pay Technicians who refuse to cross such picket lines.

**Section 1.08. No Discrimination.** There will continue to be no discrimination in the employment of Technicians because of race, creed, color, national origin, sex or age.

## ARTICLE II

**Section 2.01. Grievance Procedures.** In order to provide for the equitable and efficient settlement of disputes and controversies on specific questions arising under this Agreement, it is agreed that the procedures set forth in this Article II of this Agreement will govern the conduct of the parties.

**Section 2.02. Initiating Grievance Procedures.** (a) There shall be a Local Union-Management Grievance Committee, composed of not more than three (3) representatives of the Local Union and not more than three (3) representatives of the Employer. Upon written notice by either party to the other, this Committee shall meet within five (5) working days. The request for such meeting shall state the question or questions to be discussed.



(b) If agreement cannot be reached by the Committee within ten (10) working days (or within an extension of this period of time, as may be mutually agreed upon by the Committee) of its initial meeting, either of the local parties shall request approval from its respective headquarters office of said local party's issuance of a formal demand for arbitration (to the other local party) and, when such approval is granted, arbitration of the issue/s shall proceed at the city of origin of same not later than fourteen (14) days after the receiving party has been served with the arbitration demand.

(c) Where any issue has been brought to the attention of one party by the other and the aggrieved party has not notified the other of its desire to arbitrate for a period of six (6) months subsequent to the date upon which such issue was first brought before the Committee, the issue shall be deemed finally waived and disposed of and may not be subsequently arbitrated.

**Section 2.03. Arbitrators.** An individual Arbitrator in each case shall be appointed by the American Arbitration Association, under its rules.

**Section 2.04. Arbitration Rules, Procedures.** (a) After following the procedures set forth in Section 2.02 (above), either party may request arbitration by delivering a signed, written notice to the other party and to the American Arbitration Association.

(b) Arbitrations shall be pursuant to applicable laws and statutes and the rules and regulations of the American Arbitration Association. The Arbitrator shall have the exclusive right and obligation to determine whether or not there is an arbitrable

issue; provided, however, that decisions shall be limited to the determination of grievances arising under this Agreement and any matters stated to be not arbitrable by the terms of this Agreement shall not be considered. Nothing in this Article II shall be construed as prohibiting the National parties to this Agreement from participating in any arbitration hereunder.

(c) Any decision or award of an Arbitrator shall be final and binding upon both parties, whether rendered prior to or following the expiration of the term of this Agreement, and may be enforced in any court of competent jurisdiction, but shall not include an amendment or addition to the terms of this Agreement.

(d) A final decision or award by an Arbitrator shall be made within fourteen (14) days following the close of the hearing. No such decision or award shall be made retroactive to a time earlier than six (6) months prior to that date upon which the grievance was first initiated under Section 2.02 hereof.

(e) Decisions or awards shall remain effective until the expiration of the original term of this Agreement or until the expiration of any extension of said term.

(f) Each party will bear its own expense of arbitration and will equally share the fees and expenses of the Arbitrator/s.

**Section 2.05. Inspection.** Duly authorized representatives of IBEW may investigate or inspect technical operations of CBS covered by this Agreement at reasonable hours and in such manner as not to disturb normal operations of CBS, except at any places where the Employer reasonably deems secrecy essential; in such latter places, IBEW representatives shall consist only of IBEW Technicians regularly working at such places.



**Section 2.06. Quarterly Consultation.** Representatives of the Employer and representatives of the Union shall meet at least once every three (3) months to discuss subjects of mutual concern or interest that may arise during the term of this Agreement or matters necessary to the implementation of this Agreement. Either party may submit a written agenda to the other no less than fourteen (14) days before the scheduled date of a meeting, but discussions need not be restricted to items on such written agendas. Any statement or positions of any party at such meetings shall not be utilized for any purpose during any subsequent grievance or arbitration proceedings.

## ARTICLE III

**Section 3.01. Work Week.** The work week for all Technicians shall be forty (40) hours within five (5) work days. Work in excess of the work week shall be paid for at overtime rates, as hereinafter set forth. The work week, for payroll purposes, shall be defined as beginning at 12:01 A.M. Sunday and continuing to 12:00 midnight the following Saturday.

**Section 3.02. Work Day.** Eight (8) consecutive hours shall constitute a work day. Work in excess of the work day shall be paid for at overtime rates, as hereinafter set forth. A tour of duty starting any day and continuing into the following day shall be considered as one tour of duty and attributed to the first day, except as is provided in Section 3.04 (a) hereinafter.

**Section 3.03. Meal Periods.** No deductible meal periods shall be assigned Technicians. The meal period shall consist of sixty (60) minutes. The administration of this Section, with respect to the frequency of meal periods, shall be in accord with

the following guide lines: (a) The first meal period shall begin not earlier than two (2) hours and usually not later than five (5) hours after the beginning of the work day, and (b) any meal period/s subsequent to the first shall usually begin not later than five (5) hours after the end of the preceding meal period. It is recognized that variations may be necessary in special cases, but such variations will be exceptions and not general practice. Any complaint concerning a failure or refusal to assign meal periods in accord with the general or specific intent of this Section shall be processed as a grievance under Article II of this Agreement.

The provisions of this Section with respect to the assignment of meal periods do not apply to Technicians assigned to transmitters or, in radio studio operations, to midnight tours (overnight) assignments. A Technician in radio studio operations who works the midnight tour, and who does not receive a meal period in accordance with the above, shall work not more than seven (7) hours and receive eight (8) hours pay. The words "assigned to transmitters" shall not be construed to cover those Technicians who are not assigned to a full tour of duty at a transmitter but who, as part of their general duties, do maintenance work at the transmitters from time to time.

**Section 3.04. Rest Between Assignments.** (a) Technicians shall be allowed at least twelve (12) hours of rest between the completion of any one (1) day's assignment (including any overtime hours) and the beginning of the next day's assignment. If the rest period is eliminated due to a continuous assignment, the Technician shall receive twelve (12) hours penalty pay but in no case more than twelve (12) hours. In the case of such continuous assignment or in the event the Technician does not receive at least three (3) hours of rest prior to the beginning of his



next assignment, work during scheduled hours following such period shall be paid at the rate of one-half (½) times the regular straight time hourly rate of pay, in addition to any other compensation to which such Technician may be entitled. In the event the Technician receives at least three (3) hours of rest between the completion of any one (1) day's assignment (including any overtime hours) and the beginning of the next day's assignment, no additional compensation shall be payable for work during scheduled hours following such period. In addition to any other compensation, Technicians shall receive sixty-five percent (65%) of the hourly rate of the applicable "36 months and over" rate for each hour, or fraction of any hour, by which such rest period is reduced except when a lesser rest period, but not less than eight (8) hours, is agreed to by the Union to provide a regular rotation of shifts.

(b) The schedule of Technicians' days off and vacations shall provide for such days off and vacations to begin twelve (12) hours after the completion of the last assignment preceding such days off or vacations.

(c) The twelve (12) hour rest period between assignments shall be applicable whether occurring:

(i) between work on days normally considered regular work days.

(ii) between work on a regular work day and work on a "day off,"

(iii) between work on a "day off" and work on a "day off,"

(iv) between work on a "day off" or vacation and work on a regular day.

(v) between the last work assignment and vacation.

(d) Regardless of the scheduled or the paid day,

penalty is not payable in any case in which the Technician is given twelve (12) hours rest between the end of a day's work and the beginning of the next work assignment.

(e) Technicians assigned to handle rehearsal and/or air shows in radio studios, and Technicians assigned to handle program material in radio studios, radio master control and/or radio tape rooms, shall be granted a fifteen (15) minute rest period during the first four (4) hours work and a fifteen (15) minute rest period during the second four (4) hours of work. Said rest periods shall not be contiguous to either the start of the work day or the end of the work day. Where the work day exceeds eight (8) hours, a ten (10) minute rest period shall be granted after each three (3) hours of overtime worked.

Technicians assigned to TV transmission centers or master control, Telecine control rooms, and the video tape machine area shall be granted a rest period as follows:

(i) A fifteen (15) minute rest period between the beginning of the regularly scheduled work day and the assigned meal period.

(ii) A fifteen (15) minute rest period between the assigned meal period and the end of the regularly-scheduled work day.

(iii) Said rest periods shall not be contiguous to either the start of the work day or the end of the work day.

(iv) In no event shall such Technician be required to work more than three (3) hours without receiving a fifteen (15) minute rest period.

Technicians assigned to television studios shall receive a five (5) minute rest period after each hour. All such rest periods in studios may be coordinated



with rest periods given to other groups on the program.

**Section 3.05. Days Off.** (a) Each Technician shall be granted two (2) consecutive days off during each work week (except when a different pattern of days off may be agreed to by the Union on behalf of the Technicians affected). Saturday followed by Sunday as days off shall be considered as consecutive. A day off shall consist of twenty-four (24) hours preceded by a twelve (12) hour rest period; two days off shall consist of forty-eight (48) hours preceded by a twelve (12) hour rest period.

(b) If CBS changes a Technician's regular days off, such Technician shall not work in excess of seven (7) consecutive days following his previously scheduled days off unless he receives pay at the rate of one and one-half (1½) times his regular hourly rate of pay for a minimum of eight (8) hours for each day that is worked in excess of seven (7) consecutive days until such Technician does receive two (2) consecutive days off. Such scheduling may not be applied to any Technician for more than three (3) successive cycles of seven (7) consecutive working days. Wherever such seven (7) days scheduling has been applied, each period of such scheduling must be followed by at least a 3-week interval during which such scheduling shall not be applied to such Technician. The provisions of this sub-paragraph shall not apply in the event that such Technician works on either or both of his regular days off and is paid for such work at the rate of one and one-half (1½) times his regular hourly rate of pay for such work.

In any case where a Technician's days off are changed more than fifteen (15) times in any Agreement year, if CBS changes such days off, after such fifteenth change such Technician shall not work in

excess of five (5) consecutive days following his previously-scheduled days off unless he receives pay at the rate of one and one-half (1½) times his regular hourly rate of pay for a minimum of eight (8) hours for each day that is worked in excess of five (5) consecutive days until such Technician does receive two (2) consecutive days off.

The above provision shall not apply in the event that such Technician works on either or both of his regular days off and is paid for such work at the rate of one and one-half (1½) times his regular hourly rate of pay for such work.

(c) Technicians shall be notified of any change in schedules of days off not later than 6:00 P.M. on the seventh (7th) day prior to either the previously-scheduled days off within the newly-scheduled work week or the newly-scheduled days off, whichever time is earlier, and no change shall be made in any Technician's days off with less notice. It is understood that a Technician's days off shall not be changed to avoid sick pay to that Technician.

(d) In the event any Local Union questions the reasonableness of advance scheduling or change of schedule, such question may be handled as a grievance as provided in Article II.

(e) If the prescribed period of rest between assignments is lessened by the addition of scheduled or unscheduled overtime continuous with the day immediately prior to or the first day following a Technician's days off, such additional work shall be considered to have shortened the 12-hour rest period and the provisions of Section 3.04 shall apply. Where such shortened rest period has been compensated for in accordance with Section 3.04 (a), the provisions of Section 3.05 shall not apply.

**Section 3.06. Work Schedules.** Schedules of regular daily work assignments, showing time in, time



out and the location of the first daily assignment shall be made up and posted at a convenient place for each group of Technicians. Such daily work schedules shall be posted not later than 4:00 P.M. on the second (2nd) day preceding the affected work day, except that CBS will inform each Technician of the time and place for reporting to work on the two days following his two (2) consecutive days off, before such Technician completes his tour of duty on the last day worked prior to said days off. In any event, if schedule changes are desired thereafter, such change can only be made by adding work time to the previously-scheduled work day in compliance with Section 3.10 herein. Such notice shall not be given any Technician during the period of any day off nor prior to his first tour of duty following his days off. This provision for notice does not apply where the two (2) days off are followed by vacation. In such case, the Technician shall be notified either by letter or telegram at least one (1) week prior to the end of the vacation of the time to report for work on the first day after vacation.

During extended periods of remote assignments where room and expenses are paid, regular schedules need not be posted. The word "extended" shall mean two (2) or more days. In such case, each Technician shall be notified of his schedule for the following day prior to the completion of his day's work.

It is agreed, however, that in the case of any Technician who reports to work after 3:00 o'clock P.M. on any day, the work schedule for the second day thereafter may be changed by notice given to such Technician within the first two (2) hours that he is at work.

Schedules for TV groups shall be placed in the hands of their respective Technical Directors in accordance with the time limitations set forth in the above paragraphs.

In any case, each Technician shall be apprised of his daily work schedule at the earliest possible time.

**Section 3.07. Travel Time.** (a) Any Technician who travels in connection with any assignment and returns on the same work day shall be credited with the total time elapsed from the time he reports for scheduled duty at his home city to the time of his return.

(b) Should a Technician's travel time be less than eight (8) hours in any one day on any one assignment, he shall be credited with all time spent in traveling plus any time spent in actual performance of duties in connection with his assignment but, in any event, he shall receive a minimum credit of eight (8) hours. Where such actual travel time exceeds eight (8) hours in any day, credit shall be given for the number of hours spent in actual travel, subject to the limitation stated immediately below. In no case shall any credit be allowed for time spent in transit between midnight and 8:00 A.M., when first-class sleeping accommodations are provided, except as provided hereinafter. If a Technician's rest between midnight and 8:00 A.M. is interrupted due to the necessity of making a scheduled common carrier change and/or the necessity of handling or caring for equipment for any reasons, he shall be credited at straight time rates and without the addition of penalty time with all the time spent in transit between the hours of midnight and 8:00 A.M., except that the departure of such carrier between 12:00 midnight and 1:00 A.M. or the arrival of such carrier between 7:00 A.M. and 8:00 A.M. shall not be construed as an interruption.

(c) On working days during any such out-of-town assignment in which no traveling occurs, a Technician shall be credited with a minimum of eight (8) hours. If the total elapsed time spent on assignment in any



day exceeds eight (8) hours, the Technician shall be credited with such total elapsed time at single time rates with actual time worked at single time rates for the first eight (8) hours and at one and one-half (1½) time rates for any additional hours, whichever credit is greater.

(d) For each regularly-scheduled day off occurring during any such traveling assignment, a Technician shall be credited with a minimum of eight (8) hours at straight-time rates, provided that no traveling occurs and no work is performed on such day off.

(e) The time during which a Technician drives an automobile in the performance of any such traveling assignment shall be credited to him as time worked.

(f) At the conclusion of any out-of-town assignment, the Technician/s involved shall be credited with the time required for reporting in to his (their) home headquarters.

**Section 3.08. Travel Expenses.** (a) CBS shall reimburse each Technician for all travel and living expenses, when travel by such Technician is required or authorized by CBS, provided that no traveling expenses shall be allowed for reporting to or from work at normal and regular working places except as set forth hereinbelow. When such travel requires the Technician to spend the night away from his home, the Employer agrees to furnish first-class living and traveling accommodations. Travel by means of any regularly-scheduled commercial aircraft shall be considered as "first-class traveling accommodations" within the meaning of this Section.

When any such travel requires the Technician to spend the night away from his home, the Employer will pay to such Technician the sum of Twenty Dollars ($20.00) per day in lieu of meals and incidental expenses. When sleeping accommodations are not furnished but the assignment requires the Technician to travel fifty (50) miles or more (one way) from

the city limits and requires absence from his home base for at least fifteen (15) hours, a per diem will be paid in the amount of Thirteen Dollars ($13.00) in lieu of meals.

The Employer will provide first-class hotel accommodations (single occupancy when available) in all such cases and will pay the hotel room costs directly. All other hotel costs incurred by a Technician shall be paid directly to the hotel by the Technician. In the event the Employer requires or approves the obtaining of housing accommodations by Technicians directly, the per diem allowance shall be increased by an amount equal to the daily cost of such housing. In the unusual case where a Technician incurs reasonable and necessary expenses in excess of the per diem allowance, he shall submit a statement of such expenses to the management representative for approval.

When the Employer furnishes all meals, and the Technicians accept said meals, the per diem payment shall be reduced to Five Dollars ($5.00). In any such case, if the Technician has already received the Twenty Dollars ($20.00) per diem, he shall reimburse the Employer for the difference. In any case where a Technician elects to eat meals at a place not designated by the Employer, it shall be the obligation of such Technician to report back for a work assignment at a time designated by the Employer—provided that a minimum of sixty (60) minutes shall be allowed.

(b) When CBS requests that a Technician use his own automobile for transportation in connection with an assignment at other than his normal working place, he shall be allowed twelve and one-half (12½) cents per mile for the travel necessitated, plus tolls and reasonable parking expense, either at his normal working place or the place of such assigned duties, or both. The minimum allowance for travel ex-



penses for any day on which a Technician uses his own automobile (pursuant to the preceding sentence herein) shall be Two Dollars and Fifty Cents ($2.50), exclusive of parking expenses and tolls. In the event the Employer requests any Technician to drive his automobile to work in order that it may be used on a later assignment for the benefit of the Employer, he shall be credited with the total mileage from his home, through his assignments and back to his home, figured by the shortest route.

(c) CBS shall have the right to designate the method of travel to be used in all instances, except that Technicians shall not be required to use their own automobiles without their consent. CBS will not require any Technician to travel in any privately owned and/or operated conveyance if such Technician shows reasonable grounds for believing that such travel would be dangerous to his person. The use of streetcars, subways or public motor buses shall not be required when Technicians are carrying any substantial quantity of equipment.

(d) Technicians using their own cars for transportation to and from the CBS transmitters on Mount Wilson, California, in connection with the beginning and completion of their work days at said transmitters shall receive:

(i) twelve and one-half (12½) cents per mile for travel necessitated from the foot of the Angeles Crest Highway at Foothill Boulevard in La Canada, California to the toll gate at Mount Wilson and return, which distance each way for the purpose of calculation in connection herewith shall be deemed to be nineteen (19) miles, and

(ii) an allowance of forty-five (45) minutes at the current straight time rate for each said way traveled.

(iii) If, at any time, there should become available to the Technicians assigned to duty on Mount Wilson a means of transportation other than the use of their own cars, the Local Union and CBS will agree upon appropriate changes in the above.

(iv) No change shall be made in the presently designated method of transportation to and from the Mount Wilson transmitter without the consent of the Union or upon six (6) months' notice of the intended change given by the Employer to the Union.

(e) When a Technician is required to travel in the course of a single tour of duty between a radio studio location and the station's transmitter (AM and/or FM), or between radio transmitters, he shall receive round-trip time credit.

(f) When a Technician is authorized by the Employer to travel by automobile, such Technician will be fully protected and compensated for losses resulting from collision, property damage and personal liability which may be incurred while such vehicle is in use on a CBS assignment.

(g) Technicians shall submit a complete statement of their weekly expenses in excess of any cash advance within ten (10) days after the end of any week in which expenses are incurred. Such statement shall be in a form prescribed by the Employer and the amount of which is subject to approval by the Employer. Technicians shall be reimbursed within ten (10) days after receipt of such statement for all such reasonable and authorized expenditures made for and in behalf of their assignments as provided herein. Any dispute as to amounts due shall be subject to arbitration under Article II of this Agreement.



(h) The Company Travel Accident Insurance Policy shall be applicable in full to Technicians under this Agreement. The face amount of the policy is $100,000.

Said benefits shall be payable to the beneficiary designated by the Technician; failing to designate a beneficiary, such indemnity shall be payable to the estate of the Technician. Premiums shall be paid by the Employer.

The insurance provided herein shall be in addition to any Workmen's Compensation Insurance or other protection required to be carried by Employer by any federal, state or municipal law.

In the event that any such Technician is carrying personal insurance insuring against death in an amount in excess of $50,000.00 and the risk necessarily incident to his assignment would result in voiding such personal insurance, such Technician may decline assignment.

**Section 3.09 Wages.** Technicians shall be paid the following minimum weekly salaries based upon their length of employment with the Employer:

| | Effective 10/1/72 | Effective 10/1/73 | Effective 10/1/74 |
|---|---|---|---|
| Technicians: | | | |
| 0-12 months | $185.68 | $195.90 | $206.67 |
| 12-24 months | 196.23 | 207.02 | 218.41 |
| 24-30 months | 206.78 | 218.15 | 230.15 |
| 30-36 months | 238.43 | 251.55 | 265.40 |
| 36 months and over | 321.78 | 339.48 | 358.15 |
| Assistant Supervisors | 341.82 | 360.62 | 380.45 |
| Technical Directors | 352.37 | 371.75 | 392.20 |
| Supervisors | 355.54 | 375.10 | 395.73 |

Temporary employees for construction only shall be paid a salary adjusted to be equivalent to the proper prevailing NECA area rate, as determined and certified by the International Office of the Union, and shall work under such conditions as are similarly determined and certified as being equivalent or adjusted to be comparable to those provided in the NECA area contract.

In addition to the foregoing weekly rates of pay, Technicians who are assigned to work between the hours of 12:00 midnight and 7:00 A.M. shall receive an additional fifteen per cent (15%) of their regular hourly rate of pay for all such hours which are worked.

When any Technician is employed at a starting rate higher than the minimum provided above, such Technician shall progress from that point, receiving the scheduled increases.

In the application of the wage rates set forth herein, it is agreed that no Technician who may be receiving a higher rate of pay than that which is commensurate with his whole length of service with the Employer shall suffer any loss in compensation as the result of the execution of this Agreement.

**Section 3.10. Overtime.** Technicians who work overtime, i.e., work in excess of eight (8) hours on any work day or in excess of forty (40) hours in any work week shall receive compensation as follows:

(a) At one and one-half (1½) times their regular straight time hourly rate of pay for all work performed in excess of eight (8) hours on any regular work day, or forty (40) hours in any work week.

(b) For not less than eight (8) hours at one and one-half (1½) times their regular hourly rates of pay when work is performed on either or both of



their regularly assigned days off.

(c) Any Technician recalled to work on any work day after he has completed his scheduled assignment for that day shall be paid as if he had worked one continuous assignment of at least twelve (12) hours on that day. It is the intent of this provision that any Technician recalled to duty in accordance with the definition of callback hereinafter provided shall receive a minimum additional time credit of four (4) hours at the applicable rates of overtime compensation specified in this Section. Callback shall be defined as any time worked which is not contiguous with either that day's work or the following day's work.

No overtime assignment or request may be cancelled without payment of the compensation for the scheduled overtime unless notice of cancellation shall have been given to the Technician affected not later than 4:00 o'clock P.M. on the second day preceding the affected work day. Any overtime requested or assigned subsequent to scheduling for any given day may not thereafter be cancelled or reduced. In no event shall overtime scheduled to be performed on a day off be cancelled without payment of overtime compensation.

No overtime shall be paid on overtime, and penalty pay shall not be considered overtime nor part of base pay.

(d) Any Technician who works overtime will be paid for all time scheduled as overtime.

(e) The first half-hour of overtime worked on any day shall constitute the minimum unit of overtime; overtime in excess of one-half hour shall be paid in minimum units of fifteen (15) minutes, except that any overtime scheduled for "cleanup" purposes shall be paid only in fifteen (15) minute units. "Cleanup,"

as used herein, includes both cleanup of equipment and personal wash-up time.

(f) The Employer agrees that no Technician shall work excessive overtime; any complaint by such Technician or the Union shall be treated as a grievance subject to arbitration under Article II hereof. In determining what constitutes "excessive overtime" within the meaning of this Section, the Arbitrator or Impartial Umpire shall consider the practice in the industry with respect to overtime and the unique requirements of the business.

(g) The following principles shall govern the administration of overtime under this Agreement:

(i) The Employer has the right to schedule and require overtime work so long as it complies with the provisions of this Agreement governing scheduling and overtime pay.

(ii) The Employer will continue its long-standing policy of making every reasonable effort to avoid requiring overtime work where the Technician involved has any good reason for objecting to such work.

(iii) The Employer has no desire to force overtime work on any Technician who would prefer not to perform it. The requirements of the business are such that the right to do so within the limitations of this Agreement must be understood and maintained.

(h) Each Local Union may submit to the Employer a list of those Technicians who do not desire any overtime work. The Employer shall have the right to determine the number on each such list and to accept or reject the names for valid reasons. Once such list is established, the Technicians whose names appear on such lists shall not work any overtime. In order to accomplish the purposes of this provision, it may be



necessary to transfer those Technicians whose names appear on the lists to assignments where no overtime is required. Each of these lists will be firm for a period of six (6) consecutive months but may be changed by mutual agreement between the Employer and the Union at the end of each such six (6) month period. All other Technicians will be subject to the provisions of Section 3.10 (g).

**Section 3.11. Vacations.** (a) Technicians having at least three (3) months' service with CBS who were employed on or after April 1 but prior to September 1st of any year, shall receive one (1) week vacation with pay that year.

Technicians having at least three (3) months' service with CBS, who were employed prior to April 1st in any year, shall receive two (2) weeks' vacation with pay that year. Those employed prior to April 1st of the preceding year shall receive three (3) weeks' vacation with pay that year. Those employed prior to April 1st of the fifth (5th) preceding year shall receive four (4) weeks' vacation with pay that year. Effective with the year in which a Technician completes fifteen (15) years of service, he shall receive five (5) weeks' vacation that year and for each year of employment thereafter. Vacation shall be deemed to cover all vacation and holiday provisions (except for the special provision of Section 3.12 hereinafter) and compensation.

(b) Any Technician leaving the CBS payroll shall receive pro-rata payments according to the following schedules:

(i) For those who have not received a vacation during that vacation year:

(1) If hired on or after April 1st of that year, zero weeks plus one (1) day for each holiday worked since hiring date

up to a total of five (5).

(2) If hired on or after April 1st of the preceding vacation year, one (1) week plus one (1) day for each holiday worked in the current year up to a total of five (5).

(3) If hired on or after April 1st of the fifth (5th) preceding vacation year, two (2) weeks plus one (1) day for each holiday worked in the current year up to a total of five (5).

(4) If hired prior to April 1st of the fifth (5th) preceding vacation year, three (3) weeks plus one (1) day for each holiday worked in the current vacation year up to a total of five (5).

(5) If entitled to five (5) weeks' vacation in any year, four (4) weeks plus one (1) day for each holiday worked, up to a total of five (5).

(6) If entitled to the sabbatical, a maximum of five (5) weeks.

(ii) For those who have received all or part of the current year's vacation or the sabbatical, deduct days received from the above schedule.

For the purposes of this sub-Section (b), the holidays referred to herein are:

New Year's Day
Washington's Birthday (the third Monday in February)
Memorial Day (the last Monday in May)
Independence Day
Labor Day
Columbus Day (the second Monday in October)
Thanksgiving Day
Christmas Day
Election Day



Veterans' Day (effective October 1, 1974)

(c) Vacations shall be scheduled by the Employer during the following periods:

1. New York, Los Angeles, Boston, San Francisco and Washington and St. Louis (KMOX-TV): January 1st through December 31st.
2. St. Louis (KMOX Radio): May 15th through September 15th.
3. Chicago: April 1st through December 1st.

(d) By mutual agreement any Technician may take any or all of his vacation outside of the stipulated periods and may take a split vacation, but no Technician shall be compelled to take a vacation outside of the periods stipulated or to take a split vacation.

(e) Each Technician shall be tendered full pay for the period of his vacation no later than the last regular workday prior to his vacation.

(f) Technicians shall exercise vacation choice in order of their seniority of service as a Technician with the Employer, within the operational group to which the Technician is assigned—such as TV studio, radio studio, television maintenance, radio maintenance, TV Master Control, Radio Master Control, etc. In Chicago, Los Angeles and San Francisco, a Technician splitting a vacation under sub-Section (d) above may only exercise his seniority on the first choice and must then wait until all other Technicians have made their choice before he can select the remaining periods. Seniority shall then prevail on further selections until the completion of the vacation schedule. At Boston, Chicago, San Francisco and Washington those Technicians who are Union Stewards shall have first choice of vacation periods in their respective order of seniority.

(g) Vacations must be taken in minimum units of one (1) week and shall start on the first working day

after each Technician's days off. Where the Technician's days off have been changed subsequent to the posting of the vacation schedule, he may, at his option, retain the originally scheduled date for the start of his vacation, provided that said Technician notifies CBS of his desire to exercise said option immediately after he receives notice of the change in his days off.

(h) Vacation schedules shall be completed and posted thirty (30) days prior to the beginning of the vacation period as stated in sub-Section (c) above. Vacation schedules once posted may not be changed or altered without the consent of the Employer, the Local Union and all Technicians concerned in the change.

(i) No Technician may work for any reason during his vacation period or the two (2) days off preceding his vacation.

(j) In addition to the vacation provisions above, the Employer agrees that effective with the year in which a Technician completes his twentieth (20th) year of service with CBS, he shall receive a sabbatical vacation of ten (10) weeks, which includes the regular vacation to which he would be entitled, provided that no more than one-fifth (1/5) of those eligible shall receive such sabbatical in any one (1) year. Every five (5) years thereafter such Technician/s shall receive said sabbatical vacation. If during any such five (5) year period a Technician retires or his employment terminates, such Technician shall receive one week's sabbatical payment for each full year of Employer service during such five (5) year period in addition to any sabbatical payment to which he may be otherwise entitled. It is understood that the Employer reserves the right to determine how many of such Technicians may be on sabbatical vacation during any particular period of



time. Subject to the above, the Technicians eligible for the sabbatical shall exercise the choice of the sabbatical year and the weeks within the year in order of their seniority of service as a Technician with the Employer.

Any Technician eligible for the sabbatical, who has not received it and who is scheduled for compulsory retirement at age 65, shall be entitled to take said sabbatical within the twelve (12) months preceding his retirement date.

In the event any Technician eligible for sabbatical vacation dies before taking it, five (5) weeks' pay (or any lesser amount accrued, if any part of the sabbatical has been taken) shall be paid to his estate.

Section 3.12. Holidays. (a) Any Technician who does not receive the day off with full pay but is required to work on Independence Day, Washington's Birthday (effective Oct. 1, 1974), Thanksgiving Day, Christmas Day and/or Labor Day shall receive, in addition to any other payment which may be due him for such work, an amount equal to additional straight time for all hours so worked (but in no event shall such compensation be for less than eight (8) hours), and one of his regular work days shall be scheduled as a day off (with straight time pay for eight (8) hours) within sixty (60) days after the occurrence of the holiday. If any holiday falls on a Technician's regular day off, he shall receive no compensation for such holiday except that one of his subsequent regular work days shall be scheduled as a day off (with straight time pay for eight (8) hours) within sixty (60) days after the occurrence of the holiday. All compensatory days off specified in this paragraph, except when a holiday falls on a Technician's regular work day and he is granted the day off (with pay for eight (8) hours), must be contiguous to such

Technician's regular days off unless otherwise mutually agreed to by the Technician and the Employer. In no event shall any Technician be scheduled or permitted to work on any such compensatory day off when it has been selected and scheduled. In the event a Technician desires to receive his compensatory day off more than sixty (60) days after the occurrence of the holiday, the Technician shall notify the Company of such desire within ten (10) days after the occurrence of the holiday. The Company shall make every reasonable effort to honor such request in accordance with operational requirements. In no event, however, shall such compensatory day off be scheduled more than one year after the occurrence of the holiday. The Technician shall be notified of the scheduling of such compensatory day off by two (2) weeks' notice.

If one or more of the above holidays falls during a Technician's vacation, an extra day or days shall be added to his vacation, in observance thereof.

(The explanatory chart appended to this Agreement is in accordance with the foregoing agreement.)

## ARTICLE IV

**Section 4.01. Supervisors, Technical Directors and Assistant Supervisors.** (a) The Employer agrees to maintain in its employ at least three (3) Supervisors in Washington, D. C. and in each city in which it has a standard commercial broadcast station covered by this Agreement.

(b) All provisions of this Agreement affecting the working conditions of Technicians shall apply to Assistant Supervisors, Technical Directors and Supervisors.

Assistant Supervisors, Supervisors and Technical Directors may perform work which is outside the scope of the work jurisdiction described in this



Agreement but such work shall be of a general routine and clerical nature, not requiring the exercise of administrative judgment and shall not include the authority to hire, transfer, lay off, promote, discharge, reward or discipline any Technician or to effectively recommend such action.

(c) Any Technician designated as Technical Director shall be responsible for the technical performance of the entire group of Technicians assigned to him for a particular rehearsal and/or air show. This shall include the technical supervision of the cameramen, boom men, pushers, video control, audio, switching, sound effects, and micro-wave Technicians. In the furtherance of the above he will assign each member of his crew to the jobs that they can most acceptably perform for the best technical result on any given show.

It is his responsibility to see that good technical standards and engineering practices as set forth by Technical Operations and the Engineering Department are adhered to in the operations of Technicians assigned to him and in the utilization of equipment in his care. He shall determine the correct level of lighting necessary for good signal-to-noise ratio and an acceptable picture quality. Nothing herein shall interfere with the jurisdiction of the Lighting Director, where such employee is assigned to the program.

In the absence of higher technical authority, he shall determine the acceptability for use of technical equipment or methods, as in electronic special effects—visual or aural—or mechanical effects causing technical difficulties. Such determinations shall be reasonably executed in the light of a full understanding of the artistic effects desired in any particular instance and the dictates of good engineering standards as defined hereinabove.

The Technical Director shall be held blameless for any technical faults arising out of any situation in which his decision in any operating area has been overruled. In any case, however, the final responsibility for any program operation rests with the Program Director and/or Producer and, if differences of opinion should arise, the Program Director's instructions will be accepted as final.

It is the responsibility of the Technical Director to insure the delivery of facilities wherever possible regardless of technical difficulties, and to protect the interests of CBS in such situations by arrangements for the granting of additional fax time to compensate clients for time lost, where this is possible or practicable. Where it is necessary to assign additional time to his personnel, it shall be his responsibility to clear such with Technical Operations, except in emergencies.

He shall, upon request, serve as liaison between the director and between the agency and/or client and the technical personnel assigned to him for any particular rehearsal and/or air show.

Whenever required, he shall be in attendance at conferences with production people to familiarize himself with the format and/or any special requirements of a particular program.

He shall keep a proper record of the time of the Technicians assigned to him and any schedule changes affecting any member of the crew shall be made through him. This duty shall include the keeping of time cards or other schedules required by the Employer. He shall assume responsibility for the signature and transmission of same to the men involved. He shall be advised when any changes are to be made in the personnel of his normal crew.

He shall, in the absence of a maintenance supervisor, supervise any emergency maintenance which



becomes necessary in order to insure delivery of facilities.

He shall act as mediator between all the technical personalities involved, in order that the least friction may result and that the harmony of the crew as a unit shall be preserved, to the end that a harmonious relationship shall exist among the Technicians, directors and producers.

A Technical Director shall be assigned to each TV studio crew and TV remote crew and shall be present at all fax rehearsals (including audio rehearsals but excepting those involving orchestral balances and rehearsals, and orchestral audio recordings, audio tests, audio tape playbacks, audio spot recordings, turntable tests and P.A. tests) closed circuit programs and in the studio for all TV recordings and air shows. However, a Technical Director need not be assigned to operations consisting of announcements or inserts in a film or recorded program or to simple programs where only one studio camera is utilized.

(d) At New York and Los Angeles, there shall be at least one (1) Supervisor on duty in the TV Transmission Area during all network transmission hours. At WBBM-TV "Master Control," KNXT "Central Control" and the "Central Technical Area" at New York there shall be at least one (1) Supervisor on duty during all operating hours. At KMOX-TV "Central Technical Area" there shall be at least one (1) Supervisor or Assistant Supervisor on duty during all operating hours. The above shall not be construed as requiring the substitution of a Supervisor where the regularly assigned Supervisor on duty is absent for short periods during the day, such as meal periods and rest periods. Supervision within the meaning of this paragraph requires that the Supervisor be available for purposes of supervision within the operating areas at the particular location involved.

At New York and Los Angeles, those Technicians assigned to Television Network Master Control or the equivalent area, such as the TV Transmission Area at New York, shall be designated as and paid at the rates applicable to Assistant Supervisors. In no event shall this obligation extend to more than one (1) area at each of these locations.

(e) At New York there shall be at least one (1) Assistant Supervisor for the group of Technicians employed in editing and cutting news film.

(f) At New York and Los Angeles, there shall be at least one (1) Supervisor in the network VTR rooms.

(g) Supervisors employed in television operations shall assume responsibility for the keeping of time cards or other schedules required by the Employer and for the signature and transmission of same to the Technician/s involved.

(h) Those Technicians assigned to P. C. 31 and 32 at Broadcast Center shall be designated as, and paid at the rates applicable to, Assistant Supervisors.

(i) There shall be at least one (1) Supervisor on the staff of each FM station.

**Section 4.02. Performance of Work in Higher Pay Groups.** Any Technician who is assigned to perform the work of an Assistant Supervisor, Technical Director or Supervisor shall receive the higher rate of pay for all time spent in the performance of such work and, in no event, for any period less than one (1) day.

**Section 4.03. Temporary Employees.** (a) When any Technician is on vacation or absent on more than one week's leave of absence at Boston, San Francisco, KMOX Radio, or Chicago, CBS may, for a maximum period of six (6) months, substitute for him a temporary Technician. At these locations any Technician



on layoff shall be given the first opportunity for such temporary employment.

(b) CBS may employ special temporary Technicians for construction purposes only, but in no case shall such temporary Technicians be employed for a period longer than six (6) months. Those Technicians employed for construction purposes only, on a temporary basis, shall receive the special rate of pay set forth in Section 3.09 of this Agreement.

(c) A Technician shall not be entitled to any seniority by the reason of having been employed as a temporary Technician, except for wage purposes, and may be released upon the return of the Technician for whom he substituted.

**Section 4.04. Special Film Editors.** Special Film Editors may be employed in New York City to work as film editors and cutters in any CBS Division or department, subject only to the following terms and conditions:

(1) Special Film Editors are covered by and entitled to all of the conditions and benefits of this Agreement except that

(a) Special Film Editors shall not accrue any seniority as Technicians provided for in Section 5.02 of this Agreement, but any Technician who is rehired as a Special Film Editor following his layoff as a Technician shall retain his seniority as a Technician and shall not accrue further seniority unless and until he is rehired as a Technician in the regular order provided for in Section 5.03.

(b) Neither the hiring nor the continued employment of such Special Film Editors shall be in any way affected or conditioned by any of the provisions of Section 5.03

of this Agreement.

(c) There shall be two (2) classes of Special Film Editors. If employed for an initial unspecified period of time, such Special Film Editors shall be classified as "staff" employees and shall be entitled to the staff benefits set forth in this Agreement. Such "staff" employees shall accrue seniority within the group of staff Special Film Editors, and layoffs within that group shall be in inverse order of seniority. Said employees may be employed at the rates set forth in Section 3.09. Any layoff of such "staff" employees shall be subject to three (3) weeks notice or three (3) weeks pay in lieu thereof. If employed for the length of a program series or for a specified number of weeks, such Special Film Editors shall be classified as "free lance" employees. Said "free lance" employees must be paid at the rate applicable to 36 Months and over of employment. Such "free lance" employees shall not be eligible to participate in the Pension Plan, the Group Insurance Plan, the Comprehensive Medical Insurance Plan, or the Stock Purchase Plan. Their tenure of employment shall be as specified in the original employment, i.e., either for the length of a program series or for a specified number of weeks. If originally employed for a specified number of weeks, said employment may be extended from time to time for an additional period or periods of specified weeks.

(2) Special Film Editors previously employed as "Senior Supervisory Film Editors" (under



prior Agreement/s) shall be credited with all such prior employment for purposes of seniority as Special Film Editors.

(3) Said Special Film Editors may be assigned to the editing of motion picture film, including cutting and editing magnetic tape used in conjunction with or as a substitute for the sound track of motion picture film, for programs and program material either entirely on motion picture film or partly on motion picture film and partly live or taped. They shall not be assigned to any work involving the editing and/or cutting of video tape.

(4) During the term of this Agreement the Employer will employ in film cutting and editing operations in New York City not less than thirty-one (31) Technicians.

If openings develop for such Special Film Editors for work in New York City in any CBS division or department, CBS will first offer employment to any film editors and cutters previously employed in such division or department who may be on layoff and available for employment at the time any such opening develops. Such employment opportunities shall be offered on the basis of accrued seniority.

## ARTICLE V

**Section 5.01. Probationary Period.** (a) During the first ninety (90) days of any Technician's employment, he shall be on probation, and the Employer may terminate his services at any time during the probationary period upon one (1) week's notice. During the period of probationary employment such Technicians shall work under the conditions and receive not less than the minimum rate of pay provided in this Agreement.

(b) Technicians who have not completed their probationary period prior to layoff and who are subsequently re-employed shall be credited with all time accumulated prior to the layoff so that the probationary period does not exceed the ninety (90) days in the aggregate.

**Section 5.02. Seniority.** Within the jurisdiction of each Local Union, the seniority of all employees covered by this Agreement shall be determined as follows:

(a) The seniority of each Technician shall start as of the date that each Technician was employed by the Employer to perform work as specified in Section 1.03 hereof, except that the seniority date for those Assistant Technicians reclassified as a result of this Agreement shall be October 1, 1969.

(b) At San Francisco, all Technicians presently on the staff will be credited with seniority from the date of their initial employment with KQW or KCBS, as the case may be.

(c) At Chicago, all Technicians presently on the staff of WBBM-TV will be credited with seniority from the date of their initial employment with WBKB or WBBM-TV, as the case may be.

(d) At Washington all Technicians presently on the staff will be credited with the seniority shown on the mutually-certified seniority list.

(e) At St. Louis, all Technicians presently on the staff of KMOX shall be credited with seniority from the date of their initial employment with KMOX. All Technicians presently on the staff of KMOX-TV shall be credited with seniority from the date of their initial employment with KWK, KWK Incorporated, or KMOX-TV. It is understood that there shall be two separate seniority lists—a seniority list for KMOX and a seniority list for KMOX-TV. Those



Technicians hired subsequent to September 30, 1972 shall be credited with seniority from the date of their initial employment with KMOX or KMOX-TV and shall have their names placed on the appropriate seniority list as the case may be.

**Section 5.03. Layoffs and Re-hires.** (a) Layoffs caused by a reduction of staff shall be made in the inverse order of seniority within each of the separate units as defined in Section 5.02 within the jurisdiction of each Local Union. Any Technician who is laid off shall receive three (3) weeks' notice of such layoff or three (3) weeks' pay in lieu of such notice. In addition to such aforementioned notice of layoff or pay in lieu thereof, CBS shall pay severance pay to any Technician who is laid off, according to the scale set forth in Section 5.11.

(b) Subsequent to any layoff, should any vacancies in the staff of Technicians occur within a period of three (3) years, those Technicians on staff or on layoff status as of August 1, 1963 shall be re-employed prior to the employment of any new Technicians. Any Technicians whose initial date of employment is subsequent to August 1, 1963 shall, for the first five (5) years of his employment retain re-hire rights, in the event of layoff, for a period of one (1) year from the date of such layoff and after five (5) years of employment, acquire and retain a right to re-hire, in the event of layoff, for a period of two (2) years from the date of such layoff.

In any event, re-employment shall be made on the basis of seniority, i.e., the Technician/s last laid off shall be the first to be re-employed. Technicians who are so re-employed subsequent to a layoff shall be credited with all seniority accumulated up to the time of their layoffs. If a Technician is offered re-employment on this basis and refuses such re-employment, CBS shall have no further obligation with

respect to such Technician. This does not apply to an offer of temporary employment.

(c) In the event of a layoff, CBS shall exercise its best efforts to make available to Technicians who have been employed by the Employer for more than ninety (90) days and about to be laid off, any positions open at the time of such layoff at any other owned and/or operated station/s. Refusal to accept such re-employment will not jeopardize such Technician's rehire privilege.

**Section 5.04. Transfers.** CBS will not discriminate in matters of transfer, working hours, or assignments against any Technician because of anything said, written or done in furtherance of the policies and aims of the Union. CBS shall not transfer to a different operating group, department or section without the consent of the Local Union Business Manager those Union Shop Stewards or Union Officials specified by name on a "Steward/Official Transfer List." Such list shall contain not more than the number of names and in the categories specified below and shall be submitted to the Company at intervals of not less than six (6) months. During such intervals the "Steward/Official Transfer List" shall not be altered or modified in any manner. The combined total of Union Shop Stewards and Union Officials shall not exceed the following numbers: In New York, 15; in Los Angeles, 7; in Chicago, 2; in St. Louis, 2; in Washington, D.C. 2; in San Francisco, 1; and in Boston, 1. In the event a Local Union Business Manager refuses to consent to any proposed transfer, such refusal shall be submitted to the Company in writing enumerating those reasons upon which such decision is based. Any refusal to consent to such a proposed transfer may be submitted directly to arbitration without regard to the grievance procedure set forth in the Agreement. In any such arbitration, the



arbitrator shall be empowered to determine only whether the transfer was proposed for the purpose of discriminating against the Technician because of anything said, written, or done in furtherance of the policies or aims of the Union. In the event the arbitrator determines that the transfer was not proposed for any of the above reasons, the Company may effectuate the transfer.

**Section 5.05. Transfers to and from other CBS Stations.** CBS agrees not to transfer any Technician for any period in excess of ninety (90) days to work outside the jurisdiction of the Local Union of which he is a member without such Technician's consent. In the event of any such transfer, the seniority status of the Technician transferred shall, for pay purposes only, be based upon his length of service as a Technician with the Employer. Any Technician who desires a transfer from one facility to another within the same Local Union's jurisdiction shall notify the Company of such desire in writing. The Company shall give good faith consideration to such request.

**Section 5.06. Transfers to Other Work.** In the event that a Technician terminates his employment as a Technician and transfers out of the bargaining unit, such Technician shall lose all seniority under this Agreement.

**Section 5.07. Leaves of Absence.** (a) Leave of absence may be granted for a period not to exceed six (6) months, upon written application by any Technician, stating reasons therefor, and approval of the management of the particular station and, if the leave is for a month or more, the approval of the Local Union involved, provided that no Technician shall apply for a leave of absence primarily to enable him to solicit or accept employment elsewhere.

(b) An approved copy of the formal leave of

absence will be furnished to the Technician. A leave of absence may be extended upon approval of the management of the particular station and the Local Union involved.

(c) Upon the return of a Technician from a leave of absence, he shall be re-employed in the position and with the seniority rights held immediately preceding such leave.

(d) Any Technician ordered to military duty shall be granted a leave of absence, without pay, for such period of time as he may be required for such duty, provided that this provision shall not apply to probationary Technicians. Upon his return from such service, if he is eligible for re-employment under the terms of the Universal Military Training and Selective Service Act, he shall be credited for all purposes with all time spent in such military service. If such leave is for a period exceeding two (2) months, his vacation shall be pro-rated, with credit for any portion of the year during which he was on the Employer's payroll. For all other purposes under this Agreement, his period of service with the Armed Forces shall be included in determining his seniority as required by Law.

(e) Any Technician who is a member of a military reserve component and has a mandatory training obligation shall be granted a maximum of fifteen (15) days leave each calendar year when ordered to short tours of active duty for such purpose. In such event the Employer will pay to such Technician the difference, if any, between his military pay and the pay which he would have received if he had continued within the service of the Employer for such period.

(f) For the conduct of Union business in connection with the broadcasting industry only and upon written request of the Union, any Technician shall



be granted a leave of absence without pay for a period not to exceed six (6) months. Any such leave may be extended for an additional period of six (6) months by mutual agreement. In computing any Technician's seniority for all purposes, such leaves of absence shall be credited as time worked.

(g) Any Technician selected for a position with the Union which takes him away from his work with CBS for a period greater than six (6) months shall, upon written request from the Union, receive a leave of absence for the period of his services with the Union, but in no event in excess of an additional forty-two (42) months. Upon his return the Technician shall be re-employed in the position he held prior to beginning his leave of absence or to a position generally similar to that in which he was employed at such time with full seniority status. The Technician must apply for reinstatement within thirty (30) days after leaving the employ of the Union.

(h) Leave of absence for emergency reasons may be granted at the Employer's discretion without pay and without loss of seniority.

(i) If the Employer agrees to grant a leave of absence without pay of two (2) weeks or less, such leave of absence will be without loss of seniority.

**Section 5.08. Sick Leave.** Any Technician compelled to absent himself from work temporarily because of illness or disability shall receive full pay for a period of at least the first two (2) weeks of such absence during any calendar year, and CBS shall keep his position open for him for at least six (6) months; provided, however, that as a condition of the foregoing CBS may, in its discretion, require a physician's certificate as to the existence or continuance of such illness or disability. CBS agrees

that if it is reasonably determined that a Technician on sick leave is entitled to only limited sick leave pay (in accord with the established past practice) in any event such Technician shall continue to accrue seniority under this Agreement for all purposes except that the period of time during which such Technician is on leave without pay may not be credited or accrued under the CBS Pension Plan.

It is understood that the "established past practice" as referred to above relates to the application of Company policy with reference to extended sick leave. Under that policy the duration of the extended sick leave has been determined in each individual case upon the basis of such factors as:

1. Length of service.
2. Previous record of absences.

CBS agrees that it will not change its sick leave policy as it affects Technicians under this Agreement during the term of this Agreement. Nothing herein contained shall constitute a waiver by any Technician of any rights or privileges enjoyed by virtue of any Workmen's Compensation Laws.

**Section 5.09. Jury Duty.** When any Technician is required to serve on a Jury of any court of law or equity, such Technician will be granted leave of absence with pay and without loss of seniority for each day that he is so required to perform Jury duty service. If any such Technician is excused from such service on any day or days he shall notify the Employer of his availability for work and may be scheduled for such work as the Employer reasonably deems necessary but in no event shall work extend beyond 7:00 P.M. on any day upon which such Technician has reported for Jury duty.

**Section 5.10. Discharges.** (a) The Employer shall



have the right to discharge any Technician for just cause and shall give notice in writing to the Technician and to the Union stating in writing the reason for such discharge. Such notice of discharge shall be given the Technician being discharged not less than two (2) weeks prior to the termination of his employment or, in lieu of such advance notice, the Employer will pay such Technician two (2) weeks' salary.

(b) If the Union believes any discharge to be unjustified, the matter shall be considered a grievance and handled as provided in Article II of this Agreement; the Arbitrator/s, in cases where it is determined that a Technician has been unjustly discharged, may make an appropriate award to such Technician for all time lost, subject to the provisions of Section 2.04.

(c) It is agreed that when any complaint is received against any Technician which the Employer deems to be of sufficient importance to be made a permanent part of the record of such Technician, a written copy of such complaint will be forwarded to the Local Union and the Technician involved within ten (10) days after its receipt. Upon the request of the Union after the receipt of such complaint the Employer will, within ten (10) days, arrange for a joint meeting to be attended by the complainant, the Technician affected and representatives of the Union and the Employer. It is understood that unless this procedure is complied with, no such complaint will be recognized as a basis for any disciplinary action.

**Section 5.11. Severance Pay.** In the event of any layoff or discharge except for dishonesty, drunkenness, or gross insubordination, or where the Union requires a discharge for non-payment of dues, CBS will pay severance pay as follows:

| | |
|---|---|
| 0-1 month service | no severance |
| 1-3 months' service | 1 week's pay |
| 3-6 months' service | 2 weeks' pay |
| 6-12 months' service | 3 weeks' pay |
| 12 months to 2 years' service | 4 weeks' pay |
| 2-3 years' service | 5 weeks' pay |
| 3-4 years' service | 6 weeks' pay |
| 4-5 years' service | 7 weeks' pay |
| 5-6 years' service | 8 weeks' pay |
| 6-7 years' service | 9 weeks' pay |
| 7-8 years' service | 10 weeks' pay |
| 8-9 years' service | 12 weeks' pay |
| 9-10 years' service | 13 weeks' pay |
| 10 years and over | 15 weeks' pay |

Where a Technician has been laid off and is subsequently re-hired he shall start accruing severance pay credit from the date of such re-hire.

If a Technician subject to layoff accepts other employment in a staff position with CBS, severance pay shall not be payable. If a Technician on layoff is re-hired as a Technician before he has been on layoff for a number of weeks equal to the number of weeks for which he has received severance pay, CBS shall be entitled to recoup the difference by offset against salary. In any such case, the Technician so re-hired shall retain credit for severance pay purposes for the number of weeks so recouped.

**Section 5.12. Insurance Benefits.** The Employer agrees to continue coverage of Technicians under the Employers' non-contributory Group Insurance Plan.

In addition, coverage under the CBS Comprehensive Medical Insurance Plan shall be continued. The Employer will pay the full premium for dependent coverage, as well as that for each Technician. The deductible amount for Type B expenses incurred shall be one per cent (1%) of the Technician's base salary



on account of each person covered by the Insurance for which the Technician is enrolled and three per cent (3%) of the Technician's base salary on account of all persons covered by such Insurance.

**Section 5.13. Stock Purchase Plan.** Technicians shall continue to be eligible to participate in the CBS Stock Purchase Plan under the same conditions as apply to other CBS employees now covered by this Plan.

**Section 5.14. Funeral Leave.** Technicians shall be eligible for funeral leave in accordance with Company policy.

**Section 5.15. Maternity Leave.** Technicians shall be eligible for maternity leave in accordance with Company policy.

**Section 5.16. Injury on Job.** In the event a Technician is injured while on any assignment and, as a result of such injury, is unable to perform any of the duties set forth in Section 1.03 of this Agreement, such Technician shall be protected by a weekly indemnity in an amount equal to his base weekly salary (including any Workmen's Compensation insurance or other remuneration from protection required to be carried by the Employer by any federal, state or municipal law) for a period not to exceed fifty-two (52) weeks. In order to be eligible for the above indemnity, the Technician shall supply to the Employer medical proof of such disability within a reasonable time after the injury is sustained and, if requested, submit to a physical examination by a Company-designated physician. Any time spent away from work or payment pursuant to this sub-paragraph shall not be charged against sick leave as provided in Section 5.08 of this Agreement.

**Section 5.17. Extended Disability Insurance.** Technicians shall be covered by the CBS Extended Disability Insurance Plan. The Employer will pay the

full premium for each Technician.

## ARTICLE VI

**Section 6.01. Safety Precautions.** (a) For reasons of safety, no Technician at any transmitter of 1 kw or over will be permitted to:

(i) do any transmitter work on after-hours testing, remodeling or maintenance, or

(ii) do any work during operating hours which requires him to be inside the transmitter enclosure unless in each case another Technician or another CBS engineering employee is present.

(b) Reasonable automatic safety devices will be installed in cases where it is mutually agreed between the Union and the Employer that such devices are necessary.

(c) A safety committee composed of local CBS and Local Union representatives shall make a quarterly tour, except any places the Employer reasonably deems secrecy is essential; in such places the Union representative on such committee shall consist only of IBEW Technicians regularly working at such places.

(d) Technicians will not be required to climb or work at heights in excess of twenty-five (25) feet above floor, roof top or ground.

**Section 6.02. Working Conditions.** (a) No Technician shall be assigned to the work of keeping or writing accounting forms or reports but this limitation shall not apply to technical information required by the management and/or the Federal Communications Commission. This shall not be construed to limit the right of CBS to require the filling out and filing of time cards or other reports of time



worked. Information furnished by the Technician on such cards shall not be used against him in any disciplinary action.

(b) Operating errors occurring when a Technician is required to perform more than one function at the same time shall not be charged against his record.

Should any Local Union complain that any Technician is being required to perform more operations or functions than are reasonable under the circumstances, such complaint shall be subject to the grievance and arbitration provisions of Article II.

(c) In "blind" operations, where the Technicians assigned cannot see performers and/or announcers, such Technicians shall not be penalized for errors occurring as a direct result of such "blind" operations.

(d) It is the intention of the parties that no Technician shall be required to do any work on his own time. For the purpose of this sub-Section the preparation of equipment, operation of equipment, clean-up of equipment and personal clean-up, where made necessary by working conditions, as well as time involved when a Technician is required to obtain and consult working logs and schedules, shall be treated as "work."

(e) All Technicians required to perform work of a nature requiring protective clothing shall be furnished coveralls or similar clothing by the Employer.

(f) After ten (10) hours of driving a Company technical vehicle on an over the road long haul basis and arriving at the final destination, the driver of such vehicle shall not be assigned to any further work that day.

**Section 6.03. Licenses.** (a) Any Technician who holds a First Class Radio Telephone license, or a license to operate a television transmitter, shall be

required to keep such license in effect, as a condition of continued employment, in those cases where all that is required is an application for license renewal by simple endorsement by the Employer, where sixty (60) days written notification prior to the expiration of the Technician's license has been given to such Technician by CBS.

(b) Any Technician who holds a New York State Class 1 Chauffeur's License, or the equivalent license under the laws of any other jurisdiction, shall be required to keep such license in effect as a condition of continued employment. This provision shall not apply in any case where physical disability or any other cause beyond the reasonable control of the Technician makes it impossible for the Technician to continue the license in effect.

## ARTICLE VII

**Section 7.01. Air Credits.** On all television programs produced by the Employer to which a Technical Director is assigned, wherever air credit is given to anyone other than the producer, director, members of the cast, writer and set designer, air credit shall be given to Technical Director, subject to the following:

(a) The character and placement of any such credit is to be within the discretion of the Employer.

(b) On programs broadcast more than once per week to which the same Technical Director is assigned, credit need be given only once each week.

With respect to programs not produced by the Employer, CBS agrees that if the producer of any such program desires to give credit to the Technical Director, CBS will



interpose no objection.

(c) The audio man (in no case more than one) shall receive air credit subject to the same conditions and limitations as those governing credit to the Technical Director.

(d) On kinescope recordings and video tape recordings produced by the Employer an IBEW "bug" or label will be displayed.

**Section 7.02. License Fees.** With respect to those projectionists who have been in the employ of the Employer for one (1) year or more, and who are required by any applicable municipal ordinance or state law to obtain projectionists' licenses as a necessary condition to the performance of their duties, the Employer agrees to reimburse said projectionists for the cost of any such license fees.

**Section 7.03. Right to Use the IBEW Label.** Having complied with all the provisions of this Agreement on its part to be performed, CBS is herewith accorded permission to display the appropriate IBEW Union Label on all items of service or production, produced exclusively by members of the IBEW under the terms of this Agreement. CBS may or may not avail itself of this permission but where the IBEW Union Label is applied it shall be applied in a manner approved by the IBEW. All such labels as are not affixed to an item of service or production in accord with the foregoing shall remain the property of or be redeemable by the IBEW.

**Section 7.04. On Camera Appearances.** On-camera appearances of Technicians, except for the purpose of greetings or congratulations, shall be paid for at the applicable talent rate. In no event shall pay be required for accidental pickups.

**Section 7.05. Involuntary Retirement Under Pen-**

**sion Plan.** CBS will retire any Technician who is covered by the Company Pension Plan upon his reaching age sixty-five (65) and such involuntary retirement shall not be subject to the grievance and arbitration procedure set forth in Article II of this Agreement.

**Section 7.06. Separability.** If any provision of this Agreement violates or requires either party to violate any applicable law, rule or regulation, to that extent such provision shall be of no effect.

IN WITNESS WHEREOF, the parties have executed this Agreement the day and year first above written.

INTERNATIONAL BROTHERHOOD OF ELECTRICAL WORKERS (AFL-CIO-CLC)

By /s/ Charles H. Pillard
*International President*

COLUMBIA BROADCASTING SYSTEM, INC.

By /s/ James F. Sirmons
*Vice President*

**APPROVED**
International Office—IBEW
/s/ Charles H. Pillard, *Int'l. President*



## QUICK-REFERENCE GUIDE TO HOLIDAY PROVISIONS OF SECTION 3.12

| *Holiday Occurs* | *If You Work* | *If You Do Not Work* |
|---|---|---|
| ON A REGULAR WORK DAY | ADDITIONAL HOLIDAY PAY & ADDITIONAL DAY OFF | NO ADDITIONAL PAY NO ADDITIONAL DAY OFF |
| ON A DAY OFF | ADDITIONAL HOLIDAY PAY & ADDITIONAL DAY OFF | NO ADDITIONAL PAY BUT ADDITIONAL DAY OFF |
| DURING VACATION | (WORK DURING A VACATION IS PROHIBITED) | ADDITIONAL DAY OFF |

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# SUPPLEMENTARY LETTER OF INTENT AND UNDERSTANDING NO. 1

Mr. Charles H. Pillard
International President
International Brotherhood of
Electrical Workers
1125 Fifteenth Street N.W.
Washington, D.C. 20005

Dear Mr. Pillard:

This will serve to confirm the understanding that was reached during the recent IBEW-CBS negotiations with regard to the utilization of keyboard or other input devices associated with electronic character generators of the type currently known as "Vidifont" and electronic freehand display devices of the type currently known as "Telestrator."

It is agreed that the installation, operation, maintenance, and repair of such keyboard or other input devices is within the jurisdiction of Technicians pursuant to Section 1.03 of the Agreement; provided that other than Technicians may operate such devices subject to the following limited exceptions:

1. With respect to electronic character generators, other than Technicians may operate the keyboard or input device provided the following conditions are met:
   (a) The device is used to create, compose, or produce sophisticated, complicated, or advanced graphic or scenic displays or effects;
   (b) The type of individual assigned possesses unique talents or skills related to the job and historically has been responsible for the creation of a similar type of product or effect by other than electronic means; and
   (c) The operation of the device is restricted to the normal work area or location of the type of individual assigned.

   It is understood that individuals of the type described herein may utilize such input devices to recall previously-stored program material for purposes of evaluation, alteration, recomposition, updating, or recreation provided such recall operation is performed in the normal work area or location of the type of individual assigned.



2. With respect to electronic freehand display devices or single combination devices incorporating the features of both character generators and freehand devices, other than Technicians may operate the input device or devices (such as the associated probe which is required to produce the effect the machine is capable of producing) under the following conditions:
   (a) An individual performing on air or during recording for broadcast may operate the freehand input device and operating controls (but not setup or maintenance controls) directly related to his performance; and
   (b) An individual creating, composing or producing graphic or scenic displays or effects for storage may operate any associated input device or devices and operating controls (but not setup or maintenance controls) directly related to such creation, composition or production if:
      (1) The type of individual assigned possesses unique talents, skills, or knowledge of the subject matter and such talents, skills or knowledge are directly related to the production, composition, or creation of the graphic or scenic display or effect;
      (2) Such individual has historically been responsible for the creation of a similar type of product or effect by other than electronic means; and
      (3) The operation of the device is restricted to studios or the normal work area or location of the type of individual assigned.

   It is understood that individuals of the type described herein may utilize such input devices to recall previously-stored program material for purposes of evaluation, alteration, recomposition, updating, or recreation provided such recall operation is performed in a studio or the normal work area or location of the type of individual assigned. In the event a single combination device as referred to above is utilized and only the character generator portion of such device is used to produce, compose, or create the entire display or effect, the provisions of paragraph 1 above shall apply with respect to the type of individual that may be assigned.

Except for those limited exceptions set forth above or for purposes of information or research, the Company recognizes that the recall of previously-stored program material shall be within the jurisdiction of Technicians and under no circumstances shall other than a technician recall any previously-stored program material for the purpose of rehearsal or broadcast. Moreover, the Company agrees that all work in connection with the use of such devices heretofore performed by Technicians shall continue to be

performed by Technicians and the Company will use its best efforts to provide opportuniites for Technicians to improve their skills in the use of such devices in connection with the production of program material.

INTERNATIONAL BROTHERHOOD OF
ELECTRICAL WORKERS, AFL-CIO-CLC

By /s/ Charles H. Pillard,

Charles H. Pillard,
International President of the
International Brotherhood of
Electrical Workers, AFL-CIO-CLC

COLUMBIA BROADCASTING SYSTEM, INC.

By /s/ James F. Sirmons

James F. Sirmons,
Vice President

## SUPPLEMENTARY LETTER OF INTENT AND UNDERSTANDING NO. 2

Mr. Charles H. Pillard
International President
International Brotherhood of
Electrical Workers
1125 Fifteenth Street N.W.
Washington, D.C. 20005

Dear Mr. Pillard:

This will confirm our understanding with respect to the electronic editing device known as the CMX-600 or RAVE system.

The Company recognizes that the installation, operation, maintenance and repair of the CMX-600 or RAVE system is within the jurisdiction of Technicians in accordance with the provisions of Section 1.03 of the Agreement. In this regard the Company agrees that a Technician will be assigned to such system whenever such system is in operation and that the editing pen shall be operated



exclusively by a technician for the purpose of editing (a) any CBS program as defined in Section 1.04 (8) or (b) any news or documentary program produced, purchased, or leased by CBS. With respect to the operation of the editing pen at the principal editing console for the purpose of editing other than (a) or (b) above, the parties agree that the following guidelines shall control:

1. If the program is produced at a CBS facility listed in the Agreement (including TV City) or at other than a listed CBS facility but such program is intended for initial airing on CBS or any owned station of the Company, the director of such program may operate such editing pen for the purpose of editing such program. The Company agrees that in the event the director exercises such right to operate such editing pen, the Technician assigned to the system shall, in addition to his other duties, be primarily assigned to the console room and shall be available to assist the director in the editing process.
2. If the program is produced at other than a listed CBS facility and is not intended for initial airing on CBS or any owned station of the Company, such editing pen may be operated at the discretion of the client.

If the above correctly states our agreement, please sign and return three copies at the place indicated.

INTERNATIONAL BROTHERHOOD OF
ELECTRICAL WORKERS, AFL-CIO-CLC

By /s/ Charles H. Pillard,

Charles H. Pillard,
International President of the
International Brotherhood of
Electrical Workers, AFL-CIO-CLC

COLUMBIA BROADCASTING SYSTEM, INC.

By /s/ James F. Sirmons

James F. Sirmons,
Vice President

## SUPPLEMENTARY LETTER OF INTENT AND UNDERSTANDING NO. 3

Mr. Charles H. Pillard
International President
International Brotherhood of
Electrical Workers
1125 Fifteenth Street N.W.
Washington, D.C. 20005

Dear Mr. Pillard:

This will confirm our understanding with respect to the utilization of video tape recorders available to consumers generally and designed for home use.

Video tape recorders of the type available to consumers generally and designed for home use may be utilized by CBS executives in their offices to record program material which is received by an off-the-air antenna and distributed by an RF system and which is simultaneously being broadcast to the general public. Such recordings may be played back in the CBS executives' offices referred to herein but nothing herein shall limit the right of CBS executives to exchange such recordings for purposes of viewing on the above described video tape machines.

Program material which has been previously recorded or dubbed by a Technician may be played back on the video tape machines of the type described above for legal review by the CBS Law Department or one time in its entirety for the purpose of news policy and content review by the four most senior news executives of CBS News in New York, the Bureau Chief or highest executive at each domestic news bureau, and the two highest news executives at each of the CBS owned television stations covered hereunder, provided such news executives possess the authority to determine whether the Company has interest in or what use, if any, shall be made of such program material. Further, such video tape machines shall be owned by the Company, maintained by Technicians covered hereunder and there shall be no distribution of signals from such machines. All dubs shall be made by Technicians.



INTERNATIONAL BROTHERHOOD OF
ELECTRICAL WORKERS, AFL-CIO-CLC

By /s/ Charles H. Pillard,
Charles H. Pillard,
International President of the
International Brotherhood of
Electrical Workers, AFL-CIO-CLC

COLUMBIA BROADCASTING SYSTEM, INC.

By /s/ James F. Sirmons
James F. Sirmons,
Vice President

## SUPPLEMENTARY LETTER OF INTENT AND UNDERSTANDING NO. 4

Mr. Charles H. Pillard
International President
International Brotherhood of
Electrical Workers
1125 Fifteenth Street N.W.
Washington, D.C. 20005

Dear Mr. Pillard:

In reliance upon the Company's statements of intent and commitments as set forth below, the Union agrees that instructions and/or information may be fed to a computer involved in a switching information and facilities assignment system of a broadcast facility, and recalled for display or information purposes, by other than Technicians by means of input devices located and operated in other than technical areas.

A. Statements of Intent
   1. CTN (N.Y., Washington, TV City) plans with respect to the introduction of remote or non-technical input terminals, are limited to those terminals used for the purpose of entering or feeding instructions and/or information to a computer or computers associated with

the New York Broadcast Center P.C. switching information and facilities assignment system. The entering and feeding of instructions and/or information currently being performed by Technicians in association with the P.C. switching information and facilities assignment system in New York shall continue to be performed by Technicians.

2. CTS plans are limited to functions of the type presently being performed in the New York Broadcast Center P.C. switching information and facilities assignment system.
3. FM Radio—in the event a facility is automated, a Technician shall operate the input device to feed instructions and/or information where such instructions and/or information are changed within two hours of broadcast time.
4. AM Radio—no plans to abandon news or talk format in any city, but in event of conversion to FM format, FM statement would apply.

B. Commitments

1. Company will reveal at the earliest possible time automation plans under active consideration or automation plans that have been made. The Company is willing to discuss such plans during Quarterly Consultations. No implied restriction on Company's right to automate.
2. *Re AM Radio*—minitape waiver will not be cancelled during term of Agreement.
3. *Re FM in New York and Chicago*—Company will give at least six months notice of decision to automate and discuss ways of dealing with human problems should they arise.
4. There will be at least one associated input device in the technical area within the jurisdiction of Technicians.
5. Special provisions for individuals displaced as a direct result of automation (within a six (6) month period after automation):
   (a) For individuals who voluntarily agree to and are eligible for early retirement under the CBS Pension Plan:
      (i) 3 months' pay or, at the option of the employee, 3 months' notice;
      (ii) severance of 1 week per year of Company service or computed under Agreement, whichever is higher (full salary can't continue beyond age 65);
      (iii) continued coverage under non-contributory CBS group life insurance plan until age 65;
      (iv) continued participation in CBS Comprehensive Medical Insurance Plan at employee's expense at the then current rates until age 65; and
      (v) improvements in the early retirement features of CBS Pension Plan if approved by CBS Board of Directors.
   (b) For employees laid off:
      (i) 3 months' pay or, at the option of the employee, 3 months' notice; and
      (ii) double the applicable severance pay provided in the Agreement.



INTERNATIONAL BROTHERHOOD OF
ELECTRICAL WORKERS, AFL-CIO-CLC

By /s/ Charles H. Pillard,

Charles H. Pillard,
International President of the
International Brotherhood of
Electrical Workers, AFL-CIO-CLC

COLUMBIA BROADCASTING SYSTEM, INC.

By /s/ James F. Sirmons

James F. Sirmons,
Vice President

## SUPPLEMENTARY LETTER OF INTENT AND UNDERSTANDING NO. 5

Mr. Charles H. Pillard
International President
International Brotherhood of
Electrical Workers
1125 Fifteenth Street N.W.
Washington, D.C. 20005

Dear Mr. Pillard:

This will confirm our understanding with respect to the assigning and granting of meal periods to Technicians involved in the

gathering of news for television away from the Company's studios or facilities by means of portable electronic cameras.

No deductible meal periods shall be assigned to such Technicians. The meal period shall consist of sixty (60) minutes and shall be given in accordance with the following guidelines:

1. The first meal period shall begin not earlier than two (2) hours nor begin later than five (5) hours after the beginning of the work day.

2. In the event a first meal period of at least sixty (60) minutes is given during a continuous shift but such first meal period begins more than five (5) hours after the beginning of the work day, the Technician shall receive a penalty computed in the following manner:

   If the meal period begins more than—

   5 hours after the beginning of the work day = $ 8
   6 hours after the beginning of the work day = $ 8
   7 hours after the beginning of the work day = $10
   8 hours after the beginning of the work day = $12
   9 hours after the beginning of the work day = $14
   10 hours after the beginning of the work day = $16

3. In the event the Company is unable to give a meal period of at least sixty (60) minutes during a continuous assignment and the Technician is sent home at the conclusion of such assignment, the Technician shall receive a penalty computed in the following manner:

   Sent home after 8 hours of work = $20
   Sent home after more than 8 hours of work = $22
   Sent home after more than 9 hours of work = $24
   Sent home after more than 10 hours of work = $26
   Sent home after more than 11 hours of work = $28

4. Where at least a sixty (60) minute meal period is granted during an assignment, a second meal period shall begin not earlier than two (2) hours nor begin later than five (5) hours after the conclusion of the preceding meal period.

   (a) In the event a second meal period is given within the above specified time periods, the Company shall not be obligated to further compensate the Technician.

   (b) In the event such second meal period is assigned more than five (5) hours after the end of the preceding meal period, the appropriate penalty shall be computed by utilizing the formula contained in paragraph 2 above as if the day began at the conclusion of the first meal period.

   (c) In the event a first meal period is given but the Technician is sent home at the conclusion of his assignment, the appropriate penalty, if any, shall be computed by using the formula below as if the day began at the conclusion of the first meal period, as follows:



   Sent home not more than five hours later = $ 0
   Sent home more than 5 hours later = $20
   Sent home more than 6 hours later = $22
   Sent home more than 7 hours later = $24
   Sent home more than 8 hours later = $26
   Sent home more than 9 hours later = $28
   Sent home more than 10 hours later = $30
   Sent home more than 11 hours later = $32

The above sets forth the agreed upon methods for computing penalties for missed or delayed meal periods. In addition, the Company will use its best efforts to give the Technician as much time off as possible and to provide food at the Company's expense in the event conditions preclude the giving of a reasonable time to eat.

INTERNATIONAL BROTHERHOOD OF
ELECTRICAL WORKERS, AFL-CIO-CLC

By /s/ Charles H. Pillard,

Charles H. Pillard,
International President of the
International Brotherhood of
Electrical Workers, AFL-CIO-CLC

COLUMBIA BROADCASTING SYSTEM, INC.

By /s/ James F. Sirmons

James F. Sirmons,
Vice President

## SUPPLEMENTARY LETTER OF INTENT AND UNDERSTANDING NO. 6

Mr. Charles H. Pillard
International President
International Brotherhood of
Electrical Workers
1125 Fifteenth Street N.W.
Washington, D.C. 20005

Dear Mr. Pillard:

This will confirm our agreement concerning the employment of Technicians for the purpose of gathering news for television by means of portable electronic cameras, as follows:

1. Jurisdiction of the Agreement has been extended to the employment of Technicians on a staff basis for such work outside the territorial limits set forth in Section 1.04 of the Agreement but within the Continental United States (excluding Alaska).

2. In this regard, however, it is understood that nothing shall preclude the Company from engaging or employing individuals on a freelance basis outside the territorial boundaries set forth in Section 1.04 of the Agreement nor shall the Agreement cover or apply to any individuals engaged on such a freelance basis.

Since the parties recognize that such coverage requires further discussion with respect to the attachment of staff Technicians to particular Local Unions, the parties agree that this subject shall be discussed during Quarterly Consultations scheduled pursuant to Section 2.06 of the Agreement.

INTERNATIONAL BROTHERHOOD OF
ELECTRICAL WORKERS, AFL-CIO-CLC

By /s/ Charles H. Pillard,

Charles H. Pillard,
International President of the
International Brotherhood of
Electrical Workers, AFL-CIO-CLC

COLUMBIA BROADCASTING SYSTEM, INC.

By /s/ James F. Sirmons

James F. Sirmons,
Vice President



## SUPPLEMENTARY LETTER OF INTENT AND UNDERSTANDING NO. 7

Mr. Charles H. Pillard
International President
International Brotherhood of
Electrical Workers
1125 Fifteenth Street N.W.
Washington, D.C. 20005

Dear Mr. Pillard:

During negotiations for the current 1972-1975 CBS/IBEW National Agreement, the Company offered to all Technicians eligibility for participation in the CBS Employee Investment Fund, effective October 1, 1973. Acceptance of this offer was conditioned upon agreement by the Union that all Technicians would no longer be eligible for participation in the CBS Stock Purchase Plan as of October 1, 1973. Since the Union has indicated that further consideration of this proposal is necessary, the Company agrees that the offer as outlined above shall remain open for a reasonable period of time and that the Union shall inform the Company of its acceptance or rejection of the offer during Quarterly Consultations to be held pursuant to Section 2.06 of the Agreement but in no event later than July 1, 1973. In the event the offer is accepted by the Union, a new Section 5.13 shall be substituted for the current provision so as to reflect the agreement of the parties.

INTERNATIONAL BROTHERHOOD OF
ELECTRICAL WORKERS, AFL-CIO-CLC

By /s/ Charles H. Pillard,

Charles H. Pillard,
International President of the
International Brotherhood of
Electrical Workers, AFL-CIO-CLC

COLUMBIA BROADCASTING SYSTEM, INC.

By /s/ James F. Sirmons

James F. Sirmons,
Vice President

## SUPPLEMENTARY LETTER OF INTENT AND UNDERSTANDING NO. 8

January 9, 1973

Mr. James F. Sirmons,
Vice President
Columbia Broadcasting System, Inc.
51 W. 52nd Street
New York, New York 10019

Dear Mr. Sirmons:

The purpose of this letter is to express in writing our understanding with respect to one item involving the Washington jurisdiction.

We are in agreement as follows:

When all available CBS Technicians are being utilized and more manpower is needed to meet a peak requirement in the Washington Metropolitan area, CBS may contract with any facility having a collective bargaining agreement with Local Union No. 1200 to furnish such additional manpower and/or equipment for remote pickups originating within the Metropolitan Area of Washington, D.C., in the following situations only:

(i) Where CBS has less than forty-eight (48) hours advance notice of the proposed pickup, or

(ii) In the case of an unusual special event of the magnitude of presidential inaugurations and state funerals.

If the above correctly states our agreement, please sign in the space indicated.

COLUMBIA BROADCASTING SYSTEM, INC.

By /s/ James F. Sirmons

James F. Sirmons,
Vice President

INTERNATIONAL BROTHERHOOD OF ELECTRICAL WORKERS, AFL-CIO-CLC

By /s/ Charles H. Pillard,

Charles H. Pillard,
International President



## NOTES

## NOTES

RADIO AND TELEVISION
BROADCAST ENGINEERS UNION

INTERNATIONAL BROTHERHOOD OF ELECTRICAL WORKERS
AFL—CIO

I.B.E.W. - 1975

PROPOSALS TO MODIFY THE

IBEW-CBS AGREEMENT

1. Page 2, Section 1.01 - TERM: Open

2. Page 9, Section 1.03 - WORK JURISDICTION: Delete (n).

3. Page 15, Section 1.04 - TERRITORIAL JURISDICTION:

   (A) Change to national jurisdiction.

   (B) Establish equipment weight limitations for Technicians on remote assignments.

   (C) 1.04(8) - Change defininition for "CBS programs" to state "as used in this Agreement 'CBS programs' shall mean those programs or program material which are a result of production by (a) CBS for CBS, (b) CBS for others, and/or (c) by others for CBS."

4. Page 18, Section 1.05 - SUB-CONTRACTING:

   (A) 1.05(b) - delete first paragraph.

   (B) 1.05(c) - modify last sentence.

5. Page 27, Section 3.03 - MEAL PERIODS:

   (A) Modify last paragraph, second sentence to read: "a Technician in radio studio operations who works the midnight tour, or a Technician who is assigned to the transmitter, and who does not receive a meal period in accordance with the above, shall work not more than seven (7) hours and receive eight (8) hours pay."

   (B) Delete last sentence of last paragraph.



CBS

6. Page 31, Section 3.05 - DAYS OFF: Modify third paragraph to state days off can be changed no more than six (6) times in any Agreement year.

7. Page 35, Section 3.08 - TRAVEL EXPENSES:

   (A) Change heading to "Travel Expenses and Insurance."

   (B) 3.08(a)-first paragraph - "first class" to mean first-class section of aircraft or means of transport.

   (C) 3.08(a)-second paragraph - change per diem amounts to $30.00 per day and $23.00 per day for absences of at least 15 hours.

   (D) 3.08(a)-last paragraph - change $5.00 to $20.00. Add new paragraph providing maximum per diem on special assignments.

   (E) 3.08(b) - change mileage and minimum allowance to 25¢ and $5.00 respectively.

   (F) 3.08(d) (i) - change mileage allowance to 25¢ per mile.

   (G) 3.08(h) - change company policy to read: "the company accident insurance policy." Increase amount of policy to $250,000, and other benefits by two and one half (2½) times.

8. Page 39, Section 3.09 - WAGES:

   (A) Substantial increase.

   (B) Eliminate escalator.

   (C) Consumer Price Index clause.

9. Page 40, Section 3.10 - OVERTIME:

   (A) Modify section to provide overtime at double the normal hourly rate of pay is required for all overtime as follows:

      (i) In excess of twelve (12) hours.

      (ii) and for all unscheduled overtime.

(B) 3.10(h) - "no overtime list" to be firm for a period of two (2) consecutive months.

10. Page 43, Section 3.11 - VACATIONS:

(A) Delete (a) and substitute - "in the first year of employment, the Technicians shall receive one (1) day of vacation for each month of service, not to exceed ten (10) paid vacation days. Effective with the year in which a Technician completes one (1) year of service, said Technician shall receive three (3) weeks vacation with pay. Effective with the year in which a Technician completes five (5) years of service, said Technician shall receive four (4) weeks vacation with pay. Effective with the year in which a Technician completes ten (10) years of service said Technician shall receive five (5) weeks vacation with pay, and for each year of employment thereafter."

(B) Make corresponding changes in (b).

11. Page 47, Section 3.12 - HOLIDAYS:

(A) Modify to state compensatory time off shall be on a 1 to 1 ratio for each hour worked on a holiday (but in no event shall such compensatory time off be for less than eight (8) hours).

(B) Two additional holidays.

(C) Add "When a compensatory day off is contiguous to days off it is understood that the Technician cannot work any of these three (3) days off."

12. Page 48, Section 4.01 - SUPERVISORS, TECHNICAL DIRECTORS AND ASSISTANT SUPERVISORS: Provide Technical Directors for E.N.G. operations.

13. Page 52, Section 4.03 - TEMPORARY EMPLOYEES:

Delete San Francisco and KMOX Radio.

14. Page 59, Section 5.07 - LEAVES OF ABSENCE: Up to six (6) months without loss of seniority for Technicians with either twenty (20) years of service or age fifty-five and over.

15. Page 61, Section 5.08 - SICK LEAVE: Revise short and long term sick leave.

RADIO & TELEVISION BROADCAST ENGINEERS
IBEW, AFL-CIO

16. Page 64, Section 5.12 - INSURANCE BENEFITS:

    (A) Improved as well as alternative medical insurance plan to correct present inadequate coverage.

    (B) Discuss health maintenance organization law.

17. Page 65, Section 5.13 - re-title to EMPLOYEE INVESTMENT FUND: Use conforming language - delete Side Letter No. 7. Increase contribution factor by employees to ten (10) percent, with matching contribution by CBS.

18. Page 65, Section 5.16 - INJURY ON JOB: Delete fifty-two (52) week duration and replace with "for an unlimited period of time."

19. Page 65, Section 5.17 - EXTENDED DISABILITY INSURANCE:

    (A) Change the two (2) year period to five (5) years for evaluating the ability of an employee to perform the duties of his occupation as a Technician.

    (B) Delete six (6) month waiting period.

    (C) Increase disability payment to seventy (70) percent of base pay.

20. Page 66, Section 6.02 - WORKING CONDITIONS: New - Add (g) providing for free parking.

21. Page 69, Section 7.03 - RIGHT TO USE THE IBEW LABEL: Change heading and section to require mandatory use of I.B.E.W. label.

22. Page 69, Section 7.05 - INVOLUNTARY RETIREMENT UNDER PENSION PLAN:

    (A) Improve current plan and increase benefits for Technicians already retired.

    (B) Provide an additional plan to supplement CBS pension plan.

23. Include CBS Air Conditioning Engineers and Facility Electricians unit, located in Los Angeles, California, as a separate section of the National Agreement.

It is understood the above proposals constitute our main proposals. However, the Union reserves the right to amend or add proposals at any time during the negotiations.



NATIONAL LABOR RELATIONS BOARD

Docket No. 2-CA-5557 OFFICIAL EXHIBIT NO. R-1

Disposition: Identified ✓ Received ✓ Rejected

In the matter of CBS Inc.

Date 2-25-76 Witness _____ Reporter _____

No. Pages

CBS

CBS Inc., 51 West 52 Street
New York, New York 10019
(212) 765-4321

James F. Simons, Vice President
Industrial Relations

262

November 20, 1975

Mr. Charles H. Pillard
International President
I.B.E.W.
1125 15th Street, N.W.
Washington, D.C. 20005

Dear Mr. Pillard:

In order to allow for a determination of the unfair labor practice questions raised by each party, it is agreed that the status of negotiations and the collective bargaining agreement after September 30, 1975, is as follows:

1. Neither party shall cancel the 1972 Agreement for a period of five months unless the unfair labor practice issue is resolved by the NLRB prior to February 29, 1976 in which case the provisions of Article I, Section 1.01, Term, of the 1972 Agreement shall prevail.

2. It is the mutual intention of the parties to resume negotiations at the earliest possible moment. Should either party change its position regarding the issues before the NLRB, negotiations shall resume upon reasonable notice.

3. Provided that the Union has not cancelled the 1972 Agreement during the period between 10/1/75 and the resumption of negotiations, the Company guarantees that the wage rates in the final agreement, and the overtime derived therefrom, shall be payable retroactive from the resumption of negotiations back to 10/1/75. A commitment on retroactivity shall also apply on negotiations which follow, provided that the Union has not cancelled the 1972 Agreement anytime after the resumption of negotiations. If the Union does cancel the 1972 Agreement after the resumption of negotiations, the question of retroactivity during the period of negotiations following cancellation of the 1972 Agreement shall be subject to collective bargaining.

31-CA-5557 R-2

Identified ✓
Received ✓
Rejected

In the matter of CBS
2-26

It is further understood that nothing herein is intended to restrict the Union in bargaining over the question of retroactivity on matters other than wages and overtime based on wages.

This letter shall expire February 29, 1976 but may be renewed by mutual agreement of the parties.

If this meets with your approval, please sign in the space provided for your signature and return one copy to me.

Sincerely,

James F. Sirmons
Vice President, Industrial Relations
CBS Inc.

Charles H. Pillard
International President, I.B.E.W.

JD-(SF)-148-76
Los Angeles, Calif.

UNITED STATES OF AMERICA
BEFORE THE NATIONAL LABOR RELATIONS BOARD
DIVISION OF JUDGES
BRANCH OFFICE
SAN FRANCISCO, CALIFORNIA

CBS INC.

and

Case No. 31-CA-5587

INTERNATIONAL BROTHERHOOD OF ELECTRICAL WORKERS, AFL-CIO, AND LOCAL 4, LOCAL 45, LOCAL 202, LOCAL 1200, LOCAL 1212, LOCAL 1220, AND LOCAL 1228, INTERNATIONAL BROTHERHOOD OF ELECTRICAL WORKERS, AFL-CIO

Glenn A. Sunness, for the General Counsel.
Brundage, Beeson & Pappy, by Richard J. Davis, Jr., of Los Angeles, Calif., for Charging Parties Local 45 and IBEW.
Ashe & Rifkin, by David I. Ashe, of New York, N.Y., for Local 1212.
O'Melveny & Myers, by Charles G. Bakaly and Robert A. Siegel, of Los Angeles, Calif., for Respondent.
Stephen M. Koppekin, of New York, N.Y., for Respondent.

## DECISION

### Statement of the Case

MARTIN S. BENNETT, Administrative Law Judge: This matter was heard at Los Angeles, California, on February 24 and 25, 1976. The complaint issued December 5 and based upon an original charge filed September 11, 1975, later amended by the various Charging Parties, alleges that Respondent, CBS Inc., has engaged in unfair labor practices within the meaning of Section 8(a)(5) and (1) of the Act. Briefs have been duly submitted by the parties.

Upon the entire record in the case, and from my observation of the witnesses, I make the following:

## Findings of Fact

### I. Jurisdictional Findings

CBS Inc. is a New York corporation engaged in radio and TV broadcasting. It annually ships goods and performs services valued in excess of $50,000 outside of New York. I find that the operations of Respondent affect commerce within the meaning of Section 2(6) and (7) of the Act.

### II. The Labor Organizations Involved

International Brotherhood of Electrical Workers, AFL-CIO and its various Locals, as named in the complaint as well as National Association of Broadcast Engineers and Technicians, AFL-CIO, herein NABET, are labor organizations within the meaning of Section 2(5) of the Act. They are respectively referred to as IBEW and NABET.

### III. The Alleged Unfair Labor Practices

#### A. Introduction; The Issue

There is but one issue herein. From 1938 to 1951, IBEW and Respondent have been signatory to a series of collective-bargaining agreements originally covering broadcast technicians in the radio industry. IBEW was certified by the Board in 1951 for a nationwide unit of broadcast technicians, and in 1952, Respondent and IBEW entered into an agreement covering both radio and television technicians. Since that time they have regularly entered into collective-bargaining agreements.

In 1972, the parties entered into a contract expiring September 30, 1975. The sole issue herein is whether during negotiations for a subsequent contract Respondent unlawfully refused to bargain with the Union, more specifically that Respondent rejected the attempt of IBEW to have on its bargaining team representatives of NABET. The latter has no contractual relationship with Respondent, but does have contracts with Respondent's two key competitors, namely NBC and ABC.

#### B. Sequence of Events

Of some relevance to the instant dispute are the negotiations for the previous 1972-1975 contract. At that time, CBS proposed certain changes by which it aspired to assume leadership in the use of new electronic equipment. IBEW agreed to relax contractual provisions in return for the disclosure of information deemed confidential by Respondent. More particularly, this involved information concerning the use of a new camera; indeed, CBS had a monopoly in the use of this camera in a visit of the President of the Unites States overseas in 1974. 1/

1/ ABC and NBC apparently did not enjoy the use of this equipment until September of 1974 and CBS now utilizes more of these cameras than either

(continued)

It is undisputed that IBEW had recognized the confidential nature of the new technology developed and utilized by CBS. Pursuant to the 1972 contract, the parties agreed to quarterly consultation meetings and there is no evidence that IBEW heretofore has ever breached the confidentiality of information gleaned from these meetings; none of these meetings, it may be noted, had ever been attended by representatives of NABET.

Turning to negotiations for the 1975 agreement, according to the uncontroverted testimony of Vice President James Sirmons of Respondent, and I so find, Respondent planned to provide IBEW with confidential information concerning its plans in the production field. For example, Respondent planned to propose changes to IBEW's jurisdiction over electronic work with three new electronic input devices; none of these were then available to the competitors of Respondent.

Similarly, in the news field, Respondent intended to submit proposals broadening the use of personnel in at least four specified categories. Respondent believed that confidentiality was imperative so as to gain lead time over its competitors. It is undisputed that confidentiality concerning trade secrets and business plans would indeed give Respondent a temporary competitive advantage over its two key competitors, albeit the rest of the industry would ultimately catch up and this indeed has taken place, subsequent to the events treated herein.

C. The 1975 Negotiations

In mid-July of 1975, IBEW and Respondent commenced collective-bargaining negotiations in Ossining, New York, for a new contract. Respondent presented contract demands, not involving the disclosure of confidential information, to a negotiating committee including solely IBEW personnel.

Pursuant to agreement, they met again in San Diego, California, on September 3. On the following day, as Respondent stresses, IBEW for the first time in 35 years of bargaining history introduced as members of its bargaining committee two members of IATSE, a labor organization in the radio and television industry. Respondent did object to their presence on the premise that good faith negotiations would be impeded due to the existence of jurisdictional disputes and contradictory claims between these two labor organizations.

Recognizing that IATSE did enjoy representation of some employees of CBS and was duly signatory to contracts with CBS, the latter did continue to bargain while representatives of IATSE were present.

This acquiescence by Respondent as to the composition of the bargaining committee apparently fell afoul of the plans of IBEW because on September 8 IBEW introduced one, Nolan, an International representative and vice president of

1/ of the other two networks. In essence, simply stated, CBS was able to broadcast live coverage directly whereas its competitors, utilizing older equipment, transported film to base facilities for processing and editing and this resulted in ensuing delay.

NABET as a member of its bargaining committee. Again, as stressed by Respondent, NABET enjoyed no contracts with Respondent, but did represent employees of the latter's key competitors, namely NBC and ABC. Respondent therefore contends that because support of its proposals would require disclosure of details concerning highly confidential technological matters and business plans the presence of the NABFT representatives whose allegiance perforce was to employees of the two archrival networks would inhibit in a most direct and obvious manner the bargaining process. On September 8 one, Wolfe, it may be noted, also attended. She worked for an independent radio station and was an assistant to the business manager of IBEW Local 1212; because of her affiliation with IBEW,Respondent did not seriously challenge her presence and indeed excused same.

IBEW persisted on the participation of a NABET representative; Respondent responded by filing a charge that this was violative of Section 8(b) of the Act; this was rejected by the Regional Director and an appeal to the General Counsel was similarly rejected. Respondent and IBEW met in San Diego from September 8 through September 30, 1975. Respondent refused to negotiate because of the presence of NABET personnel and, as indicated, this is the gravamen of the instant charge.

D. Subsequent Meetings

IBEW came forward with a ploy in an effort to placate Respondent. On or about September 16, it proposed that they negotiate with respect to proposals not requiring the disclosure of confidential information. Respondent resisted this, inter alia, on the basis which I deem axiomatic, that meaningful collective bargaining perforce requires a give and take balance of respective positions with ultimate resolution of the contract upon the entire composite picture. I am not aware of any authoritative decisions that such bargaining in limbo is supported.

In any event, it appears that IBEW did not come forward with a full-fledged contract proposal. Moreover, as Respondent contends, it has no collective-bargaining relationship with NABET, unlike that with IBEW. 2/

At an ostensible bargaining meeting held on September 19, Nolan was replaced as a member of the union bargaining group by one, Lynch, International president of NABET. On or about that date, as well as thereafter, no representatives of IATSE were present at the negotiations. There was a brief bargaining meeting on September 22 during part of which Lynch of NABET was absent from the room. Bargaining did take place, but it was discontinued upon the return of Lynch to the scene.

Later, on or about September 24, Respondent proposed that the parties meet in subcommittee so as to exchange information pending agreement on a new

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2/ I am at a loss to appreciate the argument that NABET representatives would remain silent and disregard their primary duty of fair and full representation to its constituents who are employed by two key rival networks.

contract. IBEW declined, stating that all the negotiations had to take place across the bargaining table and in the presence of a representative of NABET. Thereafter, IBEW and Respondent agreed to extend the 1972 contract for a 5-month period through February 29, 1976.

E. 1976 Negotiations

The parties resumed negotiations at Santa Barbara, California without the presence of any union representatives other than IBEW personnel. These took place between January 6 and 21 and later in San Diego between January 28 and February 4, 1976. It is undisputed that during these meetings Respondent presented the identical proposals as well as supporting confidential information which it had intended to present during the abortive 1975 meetings. Sirmons, an impressive witness for Respondent, uncontrovertedly testified that these proposals with supporting confidential data took up approximately 75 percent of the bargaining time in 1976. I so find.

As noted, on November 20, 1975, Respondent and the Union had executed an interim agreement extending the contract, expiring September 30, 1975, through February 29, 1976, with wages and overtime to be agreed upon retroactive to October 1, 1975.

F. Analysis and Conclusions

The General Counsel manifestly relies upon the decision in General Electric Co. v. N.L.R.B., 412 F.2d 512 (C.A. 2) where the circuit court in effect enforced a refusal to bargain order where the employer resisted bargaining with a union negotiating committee which included representatives of other labor organizations. But endemic therein is the fact that all these other labor organizations represented employees of General Electric in other units. And the facts herein are stronger in behalf of Respondent because of the introduction of a representative of NABET which represented no employees of Respondent.

To the contrary, NABET represented only employees of two archrivals of Respondent, namely NBC and ABC. It defies credence that such a representative would ignore his responsibility to his constituents. Indeed, had he done otherwise, this might properly lead to charges of unfairly representing or acting in derogation of established responsibilities, a most basic conflict of interest. In my judgment, this case at the very least constitutes exceptional circumstances which buttress the position of an employer so as to warrant a departure from the General Electric doctrine, supra.

In essence, as Respondent contends, and I so find, under the unique circumstances of this case, the composition of the bargaining committee of IBEW perforce constitutes a "clear and present danger to the bargaining process." Indeed, even under the decision of General Electric, at page 2421, it is acknowledged that there could be a conflict of interest so as to make good faith bargaining impractical. Still later, at page 2422, the court acknowledged that a showing of the clear and present danger to the collective-bargaining process could constitute a defense to a refusal to bargain allegation.

Still later, at page 2424, the court held that the record did not demonstrate a clear and present danger to the bargaining process requisite to overcome the burden imposed on one who objected to the bargaining representatives selected by the other party. The court went on to honor as members of the bargaining committee personnel of other labor organizations who enjoyed contracts with General Electric.

But even in General Electric, the court held that it would not impose a blanket prohibition on interunion cooperation, as found by the Board, but the circuit court then acknowledged the right of an employer to demonstrate a clear and present danger to the bargaining process. In my judgment, this has been done in the present case.

It may further be noted that at a meeting IBEW proposed that a general pledge of confidentiality be executed by all sides. On the posture most favorable to IBEW, Respondent CBS took the position that this was not adequate protection against the disclosure of trade secrets. I concur, because, as indicated, the representative of NABET had a primary allegiance to his constituents who were employed by the two archrivals of Respondent. And, as is obvious, a breach of such a pledge of confidentiality by a representative of NABET would have caused irreparable injury by depriving Respondent of competitive advantages. In sum, the inclusion of a NABET representative on the bargaining committee during the 1975 negotiations, as stated, constituted a clear and present danger to meaningful collective bargaining. 3/

In view of the foregoing considerations, I shall recommend that the complaint be dismissed in its entirety.

## Conclusions of Law

1. CBS Inc. is an employer whose operations affect commerce within the meaning of Section 2(6) and (7) of the Act.

2. International Brotherhood of Electrical Workers, AFL-CIO, and Local 4, Local 45, Local 202, Local 1200, Local 1212, Local 1220, and Local 1228, International Brotherhood of Electrical Workers, AFL-CIO and NABET are labor organizations within the meaning of Section 2(5) of the Act.

3. Respondent has not engaged in unfair labor practices within the meaning of Section 8(a)(5) and (1) of the Act.

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3/ Respondent has also pressed the argument that the Charging Parties do not enjoy a statutory right to select whomever they wish as members of their negotiating committee and has argued in support of this view in its brief. Therein, it has sought to make a distinction between rights guaranteed under Section 8(b)(1)(B) of the Act and under Section 7 thereof. In view of the findings made heretofore, I deem it unnecessary to pass upon this issue.

Upon the basis of the foregoing findings of fact, conclusions of law, and the entire record, and pursuant to Section 10(c) of the Act, I hereby issue the following recommended: 4/

ORDER

The complaint is dismissed in its entirety.

Dated: JUN 23 1976

Martin S. Bennett
Administrative Law Judge

4/ In the event no exceptions are filed as provided by Section 102.46 of the Rules and Regulations of the National Labor Relations Board, the findings, conclusions, and recommended Order herein shall, as provided in Section 102.48 of the Rules and Regulations, be adopted by the Board and become its findings, conclusions, and Order, and all objections thereto shall be deemed waived for all purposes.

UNITED STATES OF AMERICA

BEFORE THE NATIONAL LABOR RELATIONS BOARD

CBS INC.

and

Case 31—CA—5587

INTERNATIONAL BROTHERHOOD OF ELECTRICAL WORKERS, AFL—CIO, AND LOCAL 4, LOCAL 45, LOCAL 202, LOCAL 1200, LOCAL 1212, LOCAL 1220, AND LOCAL 1228, INTERNATIONAL BROTHERHOOD OF ELECTRICAL WORKERS, AFL--CIO

DECISION AND ORDER

On June 23, 1976, Administrative Law Judge Martin S. Bennett issued the attached Decision in this proceeding. Thereafter, Charging Parties and General Counsel filed exceptions and supporting briefs, and Respondent filed an answering brief, cross-exceptions, and supporting brief. Charging Parties also filed an answering brief to Respondent's cross-exceptions.

Pursuant to the provisions of Section 3(b) of the National Labor Relations Act, as amended, the National Labor Relations Board has delegated its authority in this proceeding to a three-member panel.

The Board has considered the record and the attached Decision in light of the exceptions and briefs and has decided to affirm the rulings, findings, and conclusions[1/] of the Administrative Law Judge and to adopt his recommended Order.

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1/ We do not adopt any suggestion by the Administrative Law Judge to the effect that the IBEW was acting in bad faith in seeking to add NABET representatives to its bargaining team. Nor do we adopt the Administrative Law Judge's comments with respect to NABET's duty to disclose information it might receive on a confidential basis as a result of its participation in such bargaining.

ORDER

Pursuant to Section 10(c) of the National Labor Relations Act, as amended, the National Labor Relations Board adopts as its Order the recommended Order of the Administrative Law Judge and hereby orders that the complaint be, and it hereby is, dismissed in its entirety.

Dated, Washington, D.C. OCT 19 1976

John H. Fanning, Member

Howard Jenkins, Jr., Member

John A. P[illegible]ello, Member

(SEAL) NATIONAL LABOR RELATIONS BOARD